190
UNIVERSITY OF CALIFORNIA
ANDREW
SMITH
HALLIDIE:
REGENT
1868 1901

Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation

http://www.archive.org/details/charterordinance00portrich

Portland, Me. Ordinances

THE

CHARTER AND ORDINANCES

OF THE

CITY OF PORTLAND,

TOGETHER WITH

ACTS OF THE LEGISLATURE,

RELATING TO THE CITY,

AND TO MUNICIPAL MATTERS.

COLLATED AND REVISED BY

A JOINT COMMITTEE OF THE CITY COUNCIL,

ASSISTED BY

CLARENCE HALE, Esq., City Solicitor.

HALLIDIE LIBRARY OF THE UNIVERSITY OF CALIFORNIA

PORTLAND, MAINE:
DRESSER, McLELLAN & COMPANY.
1881.

JS 1315
.A15

PRESS OF
CHARLES E. NASH,
AUGUSTA.

CITY OF PORTLAND.

In Board of Mayor and Aldermen,
April 5th, 1880.

Ordered, That a committee consisting of two on the part of this Board, and such as the Common Council may join, be appointed, whose duty it shall be to cause the ordinances of the city to be revised, collated and arranged for publication, together with the city charter and such statute laws as are applicable to the affairs of the city.

That the committee shall make report to the city council from time to time any changes required to be made, or deemed necessary to make in the ordinances of the city. And that the committee have power to employ such assistance as they deem expedient to prosecute the work, the clerk hire not to exceed five hundred dollars, the expense to be paid from the contingent fund.

Read and passed; and appointed, on part of this Board, Aldermen Andrews and Chapman. Sent down.

In Common Council. Read and passed in concurrence; and joined to committee Messrs. Melcher, Duddy and Thurston.

Approved, April 7, 1880.

116880

CITY OF PORTLAND.

IN BOARD OF MAYOR AND ALDERMEN,
March 14, 1881.

Ordered, That a joint special committee of two on the part of this Board and three on the part of the Common Council be appointed to supervise the work of printing and binding the revised ordinances of the city under the contract made by order of the last City Council through its committee on revised ordinances.

Read and passed; and appointed Aldermen Chapman and Winslow, and sent down.

IN COMMON COUNCIL. Read and passed in concurrence, and appointed Messrs. Melcher, Duddy and Thurston.

Approved, March 15, 1881.

PREFACE.

The City Council, by the foregoing orders, authorized a revision and compilation of the city ordinances, together with the city charter and such statutes as should be applicable to city affairs. The committee to whom the work was assigned have attended to their duty, with the assistance of Clarence Hale, Esq., City Solicitor, and present this book as the result of their labors. In the preparation of this work the general plan adopted in previous editions has been substantially followed, because the arrangement is familiar to members of the city government and to our citizens. The historical and explanatory notes have been enlarged, and a great number of references have been made to judicial decisions. These notes and references have been made with as much brevity and conciseness as possible, and are inserted not with the idea of making this book a treatise on municipal law, but in the hope that city officers and members of committees, in their departments, may find some helpful suggestions, and some answers to the inquiries that constantly arise as to the rights of the city and the duties of its various officers and agents in the administration of municipal affairs. With this object in view more general statutes relating to municipal matters are printed in this volume than have been in former editions,

although it would be obviously impossible that *all* the laws bearing on those matters could be embraced in a book of this size. The citations from statutes are made from the revised statutes of 1871, and from the yearly statutes since that time. This has involved much more labor in compilation than would have been necessary if the revision of the State statutes, now in progress, had been completed. In many cases statutes bearing on municipal affairs have been only referred to without taking the space to quote their language, but in nearly all cases where statutes have been quoted at all, they have been printed in full from the original laws. The ordinances passed since the last revision in 1868, both those in the Municipal Registry of 1880 and those made since its publication, are compiled without change, and grouped in their proper chapters with the ordinances already printed in the edition of 1868.

In the execution of the plan of the committee the volume contains:

1st, The ordinances of the city.

2d, The city charter and special acts of the legislature relating to the city, collated under appropriate titles and chapters; also special acts bearing upon our railroad, and other public interests, as well as some agreements and citations from records bearing on those interests.

3d, Such notes and memoranda of judicial decisions as are deemed necessary and useful, so far as space would permit.

4th, An appendix containing the Rules and Orders of the City Council and of the two Boards, and a catalogue of the City Council since the incorporation of the city.

Portland, November, 1881.

CONTENTS.

PAGE.

City charter and amendments, ... 25
Agents, ... 47
Amusements, ... 53
Assemblies, ... 55
Auctions and auctioneers, ... 58
Boats and Lighters, ... 61
Boundary lines, ... 63
Bread, assize of, ... 67
Bridges, ... 68
Buildings, ... 75
Carriages, ... 79
Cemeteries, ... 92
Children, abused and neglected, ... 110
City auditor, ... 113
City clerk, ... 117
City constable and messenger, ... 128
City council, ... 129
City engineer, ... 130
City (now Market) Hall, ... 133
Clerk of the common council, ... 135
Constables, ... 136
Contracts and expenditures, ... 137
Cows, ... 140
Criers, ... 141
Dogs, ... 142
Drains and sewers, ... 145
Elections, ... 154
Ferries, ... 174
Finance, ... 179

PAGE.
Fire, ... 186
Flour, ... 210
Gas, ... 212
Gunpowder, ... 222
Harbor of Portland, ... 229
Hawkers and pedlers, ... 240
Hay, ... 243
Health, ... 246
Histories of cities and towns, ... 277
House of Correction, ... 278
Industrial school, ... 280
Innholders and victualers, ... 281
Intelligence offices, ... 285
Jurors, ... 286
Lamps and lamp posts, ... 291
Leather, ... 293
Libraries, ... 295
Lumber, ... 296
Lunatics, ... 301
Manufacturing establishments, ... 305
Manures, commercial, ... 307
Milk, ... 309
Municipal court, ... 312
Nuisances, ... 317
Ordinances and by-laws, ... 323
Paupers, ... 327
Pawn brokers, ... 337
Permits, ... 339
Petroleum, inspection of, ... 340
Pilots, ... 342
Police, ... 344
Public buildings, ... 352
Public Parks and squares, ... 359
Railroads, ... 362
Rebuilding of burned district, ... 416
Riots, ... 420
Sale of second hand articles, junk, &c. 424
Schools, ... 426
Seal of the city, ... 447
Sinking fund, ... 450

PAGE.

Solicitor, ... 452
Steam, ... 454
Streets, ... 459
Surveyor of stone, ... 507
Taxes, ... 508
Tramps, ... 534
Trees, ... 537
Truants. See Schools, ... 432
Vinegar, ... 540
Wards, ... 541
Water, ... 546
Watering troughs, ... 561
Weighers and gaugers, ... 562
Weights and measures, ... 564
Weigher of hard coal, ... 567
Weigher of plaster, ... 570
Wells and pumps, ... 571
Wharves, ... 572
Wood, bark and charcoal, ... 574
Ordinance in relation to revised ordinances, ... 581

Appendix, ... 583
Rules and orders of city council, ... 588–591
Rules and orders of common council, ... 592–596
Rules and orders of board of aldermen, ... 585–587
Catalogue of city governments since 1832, ... 599–629

LIST OF ORDINANCES

CONTAINED IN THIS VOLUME.

		PAGE.
1.	An ordinance concerning the liquor agent,	51
2.	An ordinance concerning auctions in streets,	60
3.	An ordinance concerning buildings,	76
4.	An ordinance concerning carriages,	81
5.	An ordinance concerning cemeteries,	94
6.	An ordinance concerning city auditor,	13
7.	An ordinance concerning city clerk,	126
8.	An ordinance concerning city constable and messenger,	128
9.	An ordinance concerning city council,	129
10.	An ordinance concerning city engineer,	130
11.	An ordinance concerning city (now Market) Hall,	134
12.	An ordinance concerning clerk of common council,	135
13.	An ordinance concerning contracts and expenditures,	137
14.	An ordinance concerning cows,	140
15.	An ordinance concerning criers,	141
16.	An ordinance concerning dogs,	143
17.	An ordinance concerning drains and sewers,	150
18.	An ordinance concerning elections,	171
19.	An ordinance concerning finance,	182
20.	An ordinance concerning fire,	194
21.	Rules and regulations for the government of the fire department,	196
22.	Rules and regulations of engineers of fire department,	205
23.	Rules and regulations relating to gunpowder,	225
24.	An ordinance concerning the harbor,	237
25.	An ordinance concerning hay,	244
26.	An ordinance concerning health,	262
27.	An ordinance concerning lamps and lamp posts,	291

		PAGE.
28.	An ordinance concerning leather, its exposure in streets,	294
29.	An ordinance concerning milk, inspection of,	310
30.	An ordinance concerning nuisances, steam whistles,	321
31.	An ordinance concerning ordinances and by-laws,	325
32.	An ordinance concerning permits,	339
33.	An ordinance concerning petroleum, inspection of,	341
34.	An ordinance concerning police,	346
35.	An ordinance concerning public building,	352
36.	An ordinance concerning public grounds, removing gravel from, &c.	361
37.	An ordinance concerning Portland and Forest Avenue Railroad,	398
38.	An ordinance relating to city bonds for loans to rebuild burned district,	419
39.	An ordinance concerning riots,	423
40.	An ordinance concerning schools,	443
41.	An ordinance concerning seal of the city,	448
42.	An ordinance concerning sinking fund,	450
43.	An ordinance concerning solicitor,	453
44.	An ordinance concerning streets,	477
45.	Regulations respecting the laying of gas pipes in streets,	504
46.	An ordinance concerning surveyor of stone,	507
47.	An ordinance concerning taxes,	532
48.	An ordinance concerning trees,	538
49.	An ordinance respecting habitual truants, and children growing up in idleness and ignorance. See Schools,	443
50.	An order concerning wards,	543
51.	An ordinance concerning water,	554
52.	An ordinance concerning weighers and gaugers,	562
53.	An ordinance concerning weigher of hard coal,	567
54.	An ordinance concerning weigher of plaster,	570
55.	An ordinance concerning wells and pumps,	571
56.	Order establishing a wharf line,	573
57.	An ordinance concerning wood, bark and charcoal,	576
58.	An ordinance in relation to the revised ordinances,	581

INDEX TO CITY CHARTER.

[*The figures refer to the numbers of sections.*]

ABUTTORS, to pay two-thirds cost of drains, 24.
may be allowed to build sidewalk or footway, 27, 28.
ACCEPTANCE OF CHARTER, provisions for, 26.
ADMINISTRATION of affairs, vested in, 2.
ALDERMEN, board of, how constituted, 2.
executive powers of, 5,
mayor to preside, 3.
concurrent vote, 5, 6.
election of, 12, 13.
organization of, 13.
to examine election returns, 13.
chairman of, powers and duties, 14; do. *pro tem.*, 14.
to appoint time of ward meetings, 17.
to warn general meetings of voters, 18.
no salary, 19,
ineligible to other city offices of pay, 19.
to approve bond of treasurer; 20.
may temporarily forbid passing in the streets, 22.
make drains, &c., 24.
duties relating to acceptance of charter, 26.
duties relating to footways, &c., 28, 29.
mayor and, may summon witnesses at certain hearings, 32.
appointments, by mayor and aldermen, page 26, *note.*
and removals. See Officers.
APPROPRIATIONS, all orders to state what, 7.
moneys to be put to no other purpose, 19.

ASSESSORS, election of, 8.
ASSISTANT, election of, and duties, 8.
ASSESSMENT AND ESTIMATES of cost of sidewalks and foot ways, 28, 29.
sewers and drains. See Drains and Sewers.
BOATS, SAIL, license of, &c., 16.
BONDS OF OFFICERS, 7, 20.
BUILDINGS, &c., care of, 7.
BY-LAWS, &c., may be ordained, 1.
old in force, 25.
CARRIAGES AND HORSES. See Passing.
CELEBRATIONS, assessment of money for, 16.
CEMETERY, EVERGREEN, city may make by-laws about, 31.
existing ordinances made valid, 31.
CERTIFICATES OF ELECTION, 13.
CITIZENS' MEETING, GENERAL, 18.
CHARTER, when it took effect, 26.
original, when, page 25, *note*.
CITY COUNCIL, how constituted, 2.
papers from mayor to, 4.
to fix salaries, 3, 6.
care of buildings and property, 7.
to require bonds from certain officers, 7.
to publish account of receipts and expenses, 7.
to collect, &c., taxes, 8.
to lay out, &c., streets and sidewalks, 9.
to determine regular and special meetings, 13.
may offer rewards, 16.
wrecks and ice in harbor, 16.
sails boats, regulation of, 16.
enclosure of lots, 16.
assize of bread, 16.
may assess money for celebrations, 16.
to supervise treasurer's account, 20,
to locate streets anew every ten years, 21.
to lay side walks, &c., 23.
to lay side walks and foot ways, 27, 28.
CITY ENGINEER, to locate streets, 21.
CITY CLERK, filing of papers, 9.
duties of, 17, 18.

CITY CLERK, to give notice of ward meetings, 17.
to make record of elections, 13.
to make record of streets, 21.
pro tem. 17.
CLERKS OF WARDS, 11, 12, 13, 15.
COLLECTOR, TREASURER IS, 20.
COMMON COUNCIL, how constituted, 2.
concurrent vote, 5, 6.
powers vested, 5.
election of, 12, 13.
organization of, 13.
president and clerk, 13.
no salary, 19.
members ineligible to other city offices of pay, 19.
COMMITTEES, accountable for moneys, 19.
on new streets, 9, 21.
COMPENSATIONS, fixed by city council, 6.
number of aldermen and councilmen, 19.
CONSTABLES, 12, 13, 15.
CONVENTIONS, JOINT, 6, 13.
CORPORATE POWERS, rights, &c., same as formerly, 1, 5.
COUNCIL See City Council and Common Council.
COURTS, appeal to, 9 24.
CRIMES AND CRIMINAL, prevention of by City Council, 16.
DAMAGES ON STREETS. 9.
DISCONTINUING STREETS, 9.
DRAINS AND SEWERS, repairs, 10, 24.
aldermen to make, &c. 24.
abuttors to pay, 24.
fines for entering without permit, 24.
APPEALS, 24.
ELECTIONS, each board to judge of its own members, 5.
provisions for vacancies, 5.
of city officers, 12, 26. See Officers.
annual provisions for, 13.
postponement of, 13.
ENGINEER. See City Engineer.
ESTIMATES. See Assessments.
EXECUTIVE POWERS, in whom vested, 5.
FIRE DEPARTMENT, powers of vested in, 5.

FOOT WAYS, city may require adjacent owners to construct, 27.
construct, without notice, &c. 28.
assessment for, 28, 29, 30.
curb and paving for, 28, 29.
FOURTH OF JULY CELEBRATION, 16.
GAS PIPES IN STREETS, 10.
GRIEVANCES, redress, 18.
HEALTH DEPARTMENT, vested in, 5.
offices appointed, 6.
HARBOR COMMISSIONERS, 9.
line of, 22.
HARBOR, wrecks, and ice in, 16.
wharf extensions, 22.
HORSES. See Passing.
INCORPORATION OF PORTLAND. See Portland.
INHABITANTS, corporate powers, &c., of, 1, 5.
to vote on charter, 26.
ISLAND WARD, 15, and *note*.
JUSTICE OF PEACE AND MUNICIPAL OFFICERS, 13.
LAYING OUT STREETS, &c., 9.
LOCATION OF STREETS. See Streets.
LOTS, enclosures of, 16.
and sidewalks in front of, 23.
LOW WATER MARK, 9, 22.
MARSHAL AND DEPUTIES, 5.
MAYOR, chief executive, 2, 3.
general duties, &c., 3.
and powers, 5.
to recommend measures, 3.
salary of, 3.
to preside at board of aldermen, 3.
only a casting vote, 3.
approval of papers, 4.
veto power, 4.
vacancy, 4, 13.
orders on treasurer, 7.
permits to obstruct streets, 10.
election of, 12 and 13.
notification of, 13.
oaths, 13.
in case of non-election, 13.

MEETINGS, general, of voters, 18.
of board, general and special, and ordinance on, 13 and 14.
MONEYS, how to be paid, 7, 19.
OATHS OF OFFICERS, 2, 13.
OBSTRUCTIONS, in streets, 10.
OFFICERS, how and when elected and terms, 6, 26.
bonds of, 7.
in case of moving, residence, 12.
accountable for moneys, 19.
old to hold over, &c., 25, 26.
subordinate, appointment and removal, 5, 6.
election of, 12, 26.
hearing about dereliction of duty of witnesses, 32.
"municipal," term means mayor and aldermen of cities, note, page 42.
case of majority failing of election, page 32, *note*.
OVERSEERS OF POOR, 8.
ORDERS, for moneys, 7.
ORDINANCES, &c., still in force, 25.
power to make, 1.
approval of mayor, 4.
and sidewalks, 23.
on marshals, &c., 5.
PASSING of horses may be prohibited at times, 22.
PENALTIES, imposition of, not exceeding $100, 1.
and sureties of officers, 7.
on unenclosed lots, 16.
under old charter, 25.
POLICE DEPARTMENT, vested in, 5.
how constituted, 5.
appointed, 6.
and watch department may be joined, 5.
PORTLAND, when incorporated, page 25, *note*.
laws of 1878, page 27, *note*.
PROPERTY, (city,) care of, 7.
amount city may hold, and account of, 7.
RECONSIDERATION OF PAPERS, 4.
RECORD, each board to keep, 5.
of streets, 21.
REMOVAL OF OFFICERS, 6, 12.

REPEAL OF ACTS, inconsistent, 25.
REPRESENTATIVES, instructions to, 18.
REWARDS, power to offer, 16.
SAIL BOATS, examination, regulation of, &c., 16.
SALARIES, all fixed by city council, 6.
SEWERS. See Drains.
SIDEWALKS, may regulate height, &c., 9.
repairs of, 10.
construction of, provisions for, 23.
ordinance concerning, 23.
posts and trees along edge of, 9.
paving of, 23.
and footways, 27, 28, 29, 30, 23.
assessments, 29, 30.
curbs of same, 28.
paving, 29.
STREETS, laying out, discontinuing, &c., and damages, 9.
appeal from reported damages, &c., 9.
committee on laying out, &c., 9, 21.
obstructions for repairs, &c., 10.
to be re-located every ten years, 21.
temporarily passing may be stopped, 22.
committee on, 23.
commissioner, 23.
location of to be ascertained by city engineer, when, 21.
SUBORDINATE OFFICERS. See Officers.
TAXES, ASSESSORS, &c., 7.
apportionment and collection, 8.
collection, 20.
sales of property for, 20.
assessed in 1863 and after to be collected by treasurer alone, 20.
TELEGRAPHS, damage, &c., from, 9.
TREES, damage, &c., from, 9.
TREASURER, orders on, 7.
treasurer and collector, general powers and duties, 20.
bond of, 20.
deputies &c., 20.
to collect assessments on drains, &c., 24.
alone to collect taxes after 1863, 20.

VACANCY IN MAYOR'S OFFICE, 4, 13.
in boards, 5.
in subordinate offices, 6.
VETO OF MAYOR, 4, 14.
VOTE to adopt charter, 26.
VOTERS, general meeting of, 18.
how called, 18.
and purposes of, 18.
to vote on charter, 26.
WARDS, to be seven, 11,
revisions of, 11.
island ward, 15, and note.
WARD MEETINGS, how called, &c., 11, 13, 17.
for acceptance of charter, 26.
WARDENS AND CLERKS, choice of, &c., 11, 12, 13, 15.
duties, &c., 11, 13, 15.
assistants, 11.
WARRANTS ON TREASURER, 20.
WATCH AND WARD, vested in, 5.
WATER PIPES in streets, 10.
WHARVES, extension of, 22.
WIDENING, &c., streets, 9.
WITNESSES may be compelled to attend before mayor and aldermen in certain hearings, 32.
punished for failure to comply with summons, 33.

CITY CHARTER.

City Charter.[1]

UNIVERSITY

SECTION 1. The inhabitants of Portland shall continue to be a body politic and corporate by the name of the city of Portland, and as such, shall have, exercise, and enjoy all the rights, immunities, powers, privileges and franchises, and shall be subject to all the duties and obligations now appertaining to, or incumbent upon said city, or the inhabitants or municipal authorities thereof; and may ordain reasonable by-laws and regulations for municipal purposes, and impose penalties for the breach thereof, not exceeding one hundred dollars, to be recovered for such uses as the municipal authorities may appoint.

Private laws 1863, c. 275.

Corporate powers.

Power to make by-laws.

Penalties.

SECTION 2. The administration of all the fiscal, prudential and municipal affairs of said city, with the government thereof, shall be vested in one principal magistrate to be styled the mayor, and one council of seven to be denominated the board of aldermen, and one council of twenty-one, to be denominated the board of common council, all of whom shall be inhabitants of said city; which board shall constitute and be called the city council; and shall be sworn or affirmed in the form prescribed by the constitution of the State for State officers.[2]

Mayor.

Aldermen.

Council. Ibid.

[1] Portland was incorporated as a town July 4, 1786. It adopted a city charter March 26, 1832, the number of votes cast being 1,276. In favor of accepting charter, 780, against, 496.

The original charter is chapter 248, acts of 1832.

The charter above is a revision, with amendments of 1870, 1871, and 1881.

The powers and duties of the city government have been enlarged and modified in many respects by general legislation.

[2] By R. S., c. 1, § 4, the mayor and aldermen of cities are the "municipal officers." For general duties of, see R. S., 1871, chapters 3 and 4.

Duties of Mayor.

SECTION 3. The mayor of said city shall be the chief executive magistrate thereof. It shall be his duty to be vigilant and active in causing the laws of the State, and ordinances and regulations of the city, to be executed and enforced, to exercise a general supervision over the conduct

Ibid.

of all subordinate officers, and to cause violations or neglect of duty on their part to be punished. He shall, from time to time, communicate to the city council, or either board, such information, and recommend such measures, as the interest of the city may require. He shall preside at all meetings of the mayor and aldermen, and in joint meetings of the two boards, but shall have only a casting vote.[3] He shall be compensated for his services by a salary to be fixed by the city council, payable at stated periods, and shall receive therefor no other compensation, which salary however, shall not be increased or diminished during his year of office.

Laws, &c., to be approved by Mayor.

SECTION 4. Every law, act, ordinance, resolve or order, requiring the consent of both branches of the city council, excepting rules and orders of a parliamentary character, shall be presented to the mayor for approval. If not approved by him he shall return it with his objections at the next stated session of the city council, to that branch

Ibid.

in which it originated, which shall enter the objections at large on its journal, and proceed to reconsider the same. If upon such reconsideration it shall be passed by a vote of two-thirds of all the members of that branch, it shall be

Veto power.

sent, together with the objections, to the other branch, by which it shall be reconsidered, and if passed by two-thirds of that branch it shall have the same effect as if signed by the mayor. In case of vacancy in the office of mayor, when said law, act, ordinance, resolve or order be finally passed, the same shall be valid without approval.

Executive powers, in whom vested.

Ibid.

SECTION 5. The executive powers of said city generally, and the administration of police and health departments, with all the powers of selectmen, except as modified by

[3] R. S., 1871, c. 3, § 27, and laws 1855, c. 125; where mayor has casting vote, if two or more of the candidates have each half the votes cast, he shall declare which is elected.

Where appointments to office are made by mayor and aldermen of cities, they may be made by the mayor by and with advice and consent of alder men, and such officers may be removed by mayor.

this act, shall be vested in the mayor and aldermen. All the powers of establishing watch and ward, now vested by the laws of the State in the justices of the peace and municipal officers or inhabitants of towns, are vested in the mayor and aldermen, so far as relates to said city; and they are authorized to unite the watch and police departments into one department and establish suitable regulations for the government of the same. The officers of police shall be one chief, to be styled the city marshal, so many deputy marshals as the city council may by ordinance prescribe, and so many watchmen and policemen as the mayor and aldermen may from time to time appoint.[4] Police. All other powers now or hereafter vested in the inhabitants of said city, and all powers granted by this act, as well as all powers relating to the fire department, shall be vested in the mayor and aldermen, and common council of said city, to be exercised by concurrent vote, each board to have a negative upon the other. Each board shall keep a record of its proceedings, and judge of the election of its own members; and in case of vacancies, new elections shall be ordered by the mayor and aldermen.

SECTION 6. The compensation of all subordinate city officers whatsoever, shall be fixed by the city council. Compensation. All officers of the police and health departments shall be appointed by the mayor and aldermen, and may be removed by them for good cause. Appointments and removals. All other subordinate officers, now elected by the mayor and aldermen or the city council, shall hereafter be elected by joint convention of the city council, and such officers may be removed for good cause, by concurrent vote passed in each branch by the assent of two-thirds of all the members thereof. Except as otherwise specially provided in this act, all subordinate officers shall be elected annually on the second Monday of March, or as soon thereafter as may be, and their term of office Election of subordinate officers.

[4] Private laws 1878, c. 16, have this provision: "The city marshal, deputy marshals and policemen, of the city of Portland, shall hereafter be appointed by the mayor, by and with the advice and consent of the aldermen, and shall hold office during good behavior, subject, however, after a hearing, to removal at any time by the mayor, by and with the advice and consent of the aldermen, for inefficiency or other cause. The mayor may, for cause, suspend any policeman from duty, and such suspension shall continue in force till the next meeting of the aldermen."

See also, *post*, title "Police."

shall be for one year, and until others are qualified in their place. All vacancies may be filled by the board having authority to elect.

Ibid.

SECTION 7. No money shall be paid out of the city treasury[5] except on orders drawn and signed by the mayor, designating the fund or appropriatien from which said orders are to be paid, nor unless the same shall be first granted or appropriated therefor, by the city council; and the city council shall secure a prompt and just accountability by requiring bonds with sufficient penalty and surety or sureties, from all persons intrusted with the receipt, custody or disbursement[6] of money; they shall have the care and superintendence of the city buildings and the custody and management of all city property, with power to let or sell what may be legally let or sold, and to purchase and take in the name of the city, real and personal property for municipal purposes to an amount not exceeding two hundred thousand dollars in addition to that now held by the city. And shall as often as once a year cause to be published for the information of the inhabitants, a particular account of receipts and expenditures, and a schedule of city property.

Powers of City Council.

SECTION 8. The assessors shall continue to be elected on the second Monday in March. At the first election thereof under this act, three persons shall be elected assessors, one of whom shall be elected for one year, one for two years, and one for three years, and at each subsequent election one assessor shall be elected for three years, each of whom shall continue in office until some other person shall have been elected and qualified in his place. The city council shall elect an assistant assessor in each ward, whose duty it shall be to furnish the assessors with all the necessary information relative to persons and property taxable in his ward; he shall be sworn or affirmed to the faithful performance of his duty. All taxes shall be assessed, apportioned and collected in the manner prescribed by the laws of this State relative to town taxes, except as herein modified; and the city council may establish further or additional provisions for the collection

Assessors.

Assistant Assessors.

[5] *Post*, § 19.

[6] *Post*, title "Buildings."

thereof, and of interest thereon. There shall be elected at the first election of subordinate officers under this act in March twelve persons for overseers of the poor and workhouse, four of whom shall be elected for one year, four for two years, and four for three years; and all subsequent annual elections shall be for the term of three years. Overseers of Poor.

SECTION 9. The city council shall have exclusive authority[7] to lay out, widen or otherwise alter, or discontinue any and all streets or public ways in the city of Portland, without petition therefor, and as far as extreme low water mark; and to estimate all damage sustained by the owners of land taken for that purpose; but all locations below high water mark shall be subject to the provisions of the laws relating to the commissioners of Portland harbor. A joint standing committee of the two boards shall be appointed, whose duty it shall be to lay out, alter, widen or discontinue any street or way in said city, first giving notice of the time and place of their proceedings to all parties interested, by an advertisement in two daily papers printed in Portland, for one week at least previous to the time appointed. The committee shall first hear all parties interested, and then determine and adjudge whether the public convenience requires such street or way to be laid out, altered or discontinued; and shall make a written return of their proceedings, signed by a majority of them, containing the bounds and descriptions of the street or way, if laid out or altered, and the names of the owners of the land taken, when known, and the damages allowed therefor; the return shall be filed in the city clerk's office at least seven days previous to its acceptance by the city council. The street or way shall not be altered or established until the report is accepted by the city council, and the report shall not be altered or amended before its acceptance. A street or way shall not be discontinued by the city council, excepting upon the report of said committee. The committee shall estimate and report the damages sustained by the owners of the lands adjoining that portion of the street or way which is so discontinued; Streets. Ibid. Damages in laying out streets.

[7] Power of Co. Com'rs over county roads not affected by this charter. R. S., 1871, c. 18, § 1, 1875, c. 25.

their report shall be filed with the city clerk seven days at least before its acceptance.[8] Any person aggrieved by the decision or judgment of the city council in establishing, altering, or discontinuing streets, may, so far as relates to damages, appeal therefrom to the next court having jurisdiction thereof in the county of Cumberland, which court shall determine the same by a committee or reference under a rule of court, if the parties agree, or by a verdict of its jury, and shall render judgment, and issue execution for the damages recovered, with costs to the party prevailing in the appeal. Such appeal shall be made to the term of the Supreme Judicial Court, which shall first be holden in the county of Cumberland, more than thirty days from and after the day the street is finally established, altered or discontinued, excluding the day of commencement of the session of said court. The appellants shall serve written notice of such appeal upon the mayor or city clerk, fourteen days at least before the session of the court, and shall at the first term file a complaint setting forth substantially the facts of the case. On the trial, exceptions may be taken to the rulings of the court, as in other cases.[9] Co-tenants who are appellants, shall join in their appeal or shall not recover their costs. If a street or way is discontinued before the damages are paid or recovered for the land taken, the land owner shall not be entitled to recover such damages, but the committee in their report discontinuing the same shall estimate and include all the damages sustained by the land owner, including those caused by the original location of the streets, and in such cases, if an appeal has been regularly taken, the appellant shall recover his costs. The city shall not be compelled to construct or open any street or way thus hereafter established, until in the opinion of the city council the public good requires it to be done; nor shall the city interfere with the possession of the land so taken by removing therefrom materials, or otherwise until they decide to open and construct said street. The city council may regulate the height and width of sidewalks in any public

Appeals.

Sidewalks, &c.

[8] See "Streets," *post;* also 1872, c. 26; 1877, c. 172.

[9] R. S., 1871, c. 18, § 9. For matter of costs, see Abbott *v.* Penobscot Co. 52 Maine, 584.

square, places, streets, lanes or alleys in said city; and may authorize posts and trees to be placed along the edge of said sidewalks.[10] Nor shall the city be answerable for damages occasioned by telegraph poles and wires erected in its streets.

Obstructing streets.

SECTION 10. The mayor may on such terms and conditions as he may think proper, authorize and empower any person or corporation to place in any street, for such time as may be necessary, any materials for making or repairing any street, sidewalk, cross-walk, bridge, water-course or drain, or for erecting, repairing, or finishing any building or fences, or for laying or repairing gas or water pipes, provided that not more than one-half of the width of the street shall be so occupied.[11] And such material so placed by virtue of any license obtained as aforesaid, shall not be considered an incumbrance or nuisance in such street; and the city shall not be liable to any person for any damages occasioned by such materials.

Gas-pipes.

Ibid.

Wards.

SECTION 11. The city shall remain divided into seven wards;[12] and it shall be the duty of the city council, once in ten years or oftener, to revise, and if it be needful, to alter such wards, in such manner as to preserve, as nearly as may be, an equal number of voters in each. In each of said wards, at the annual municipal election, there shall be chosen by ballot, a warden and clerk, who shall hold their offices for one year, from the Monday following their election, and until others shall have been chosen and qualified in their places. Said warden and clerk shall be sworn or affirmed to the faithful performance of their respective duties by any justice of the peace of the city; and a certificate of such oaths or affirmations having been administered, shall be entered by the clerk on the records of the ward. The warden shall preside at all ward meetings, with the powers of moderators of town meetings. If at any meeting the warden shall not be present, or shall

Ibid.

[10] See laws 1871, c. 178; ord. May 1, 1871, and chapter on Streets, *post*. See also § 27, of this charter.

[11] Morton *v.* Frankfort, 55 Maine, 46; Jacobs *v.* Bangor, 16 Maine, 187; Perkins *v.* Fayette, 68 Maine, 152.

[12] Change in ward lines must be approved by majority of legal votes cast at next city election after action of city council. R. S., 1871, c. 3, § 24. See also title "Wards," and order of city council of February 19, 1872.

refuse to preside, the clerk of such ward shall call the meeting to order and preside until a warden *pro tempore* shall be chosen. If both are absent, or shall refuse to act, a warden and clerk *pro tempore* shall be chosen. The clerk shall record all proceedings, and certify the votes given, and deliver over to his successor in office, all such records and journals, together with all other documents and papers held by him in said capacity. The voters of each ward may choose two persons to assist the warden in receiving, sorting and counting the votes.

All regular ward meetings shall be notified and called by warrant from the mayor and aldermen, in the manner prescribed by the laws of this State for notifying and calling town meetings by the selectmen of the several towns.

Election of city officers.

SECTION 12. The mayor shall be elected by the inhabitants of the city, voting in their respective wards. One alderman, three common councilmen, a warden and clerk, and two constables shall be elected by each ward, being residents in the ward where elected.[13] All said officers shall be elected by ballot by a majority of the votes given; and shall hold their offices one year from the second Monday in March, and until others shall be elected and qualified in their places.[14] All city and ward officers shall be held to discharge the duties of the offices to which they have been respectively elected, notwithstanding their removal after their election out of their respective wards into any other wards in the city; but they shall not so be held after they have taken up their permanent residence out of the city.

Same.

SECTION 13. On the first Monday in March annually, the qualified electors of each ward shall ballot for mayor, one alderman, three common councilmen, a warden and clerk, and two constables, on one ballot. The ward clerk,

[13] See R. S., 1871, c. 4, § 32, and laws 1877, c. 213.

[14] City Records, vol. 5, p. 318. Opinion of W. P. Fessenden, City Solicitor, in 1844, that if a *majority* of board fail of election, then the *entire* board of the year before, hold over; but that when a *majority* of the new board is elected, *all* the old board is officially dead, so that there can be no members of old boards of aldermen or councilmen holding seats in the city government of any year. People *v.* Jones, 17 Wendell, 81; and *In re* Union Ins. Co. 22 Wendell, 599.

within twenty-four hours after such election, shall deliver to the persons elected, certificates of their election, and shall forthwith deliver to the city clerk, a certified copy of the record of such election, a plain and intelligible abstract of which shall be entered by the city clerk on the city records. If the choice of any such officers is not effected on that day, the meeting shall be adjourned to another day, (not more than two days thereafter,) to complete such election, and may so adjourn from time to time, until the election is complete. The board of aldermen shall, as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the person who shall have been elected mayor by a majority of the votes given in all the wards, to be notified in writing of his election. But if it shall appear that no person shall have been so elected, or if the person elected shall refuse to accept the office, the said board shall issue their warrants for another election; and in case the citizens shall fail on a second ballot to elect a mayor, the city council in convention shall, from the four highest candidates voted for at the second election and returned, elect a mayor for the ensuing year; and in case of a vacancy in the office of mayor by death, resignation or otherwise, it shall be filled for the remainder of the term by a new election in the manner herein before provided for the choice of said officer. The oath or affirmation prescribed by this act, shall be administered to the mayor by the city clerk or any justice of the peace in said city. The aldermen and common councilmen elect, shall on the second Monday in March, at ten o'clock in the forenoon, meet in convention, when the oath or affirmation required by the second section of this act shall be administered to the members of the two boards present, by the mayor or any justice of the peace after which the board of common council shall be organized by the election of a president and clerk. The city council shall, by ordinance, determine the time of holding stated or regular meetings of the board, and shall also, in like manner, determine the manner of calling special meetings and the persons by whom the same shall be called; but until otherwise

Organization.

provided by ordinance, special meetings shall be called by the mayor by causing a notification to be left at the usual residence or place of business of each member of the board or boards to be convened.

SECTION 14. After the organization of a city government and the qualification of a mayor, and when a quorum of the board of aldermen shall be present, said board, the mayor presiding, shall proceed to choose a permanent chairman who, in the absence of the mayor, shall preside at all meetings of the board, or at conventions of the two boards, and in case of any vacancy in the office of mayor, he shall exercise all the powers and perform all the duties of the office so long as such vacancy shall remain; he shall continue to have a vote in the board, but shall not have the veto power. The board of aldermen, in the absence of the mayor and permanent chairman, shall choose a president *pro tempore* who shall exercise the powers of a permanent chairman.

Chairman of Aldermen.

His powers.

SECTION 15. In addition to the seven wards, the several islands within the city of Portland, are so far constituted a separate ward as to entitle the legal voters thereon to choose a warden, ward clerk, and one constable, who shall be residents on said islands.[15] They shall hold their ward meetings on any one of the islands which a majority of the qualified voters residing on said islands may designate, and may, on the days of election, vote at the place designated for all officers named in the warrant calling the meeting. The warden shall preside at all meetings, receive the votes of all qualified electors present whose names are borne on

Island ward.

[15] The several Islands within the city of Portland shall so far constitute two separate wards as to entitle the legal voters of each of said wards to choose a warden, ward clerk and one constable, who shall be residents on said islands and of their respective wards. The first of said wards shall comprise Long Island, Crotch Island, Hope Island, Jewell's Island and Little Chebeague Island, or such parts of said islands as are within the city of Portland, and the ward meetings of said first ward, shall be holden on Long Island. The second of said wards shall comprise the remaining islands within the city of Portland, and the ward meetings of said second ward, shall be holden on Peak's Island. The qualified electors of each of said wards may meet as provided in the thirty-ninth section, and also for the choice of city officers, at the place designated, and may, on the day of election, vote for all officers named in the warrant calling the meeting. 1879, c. 97.

See title "Elections," *post*.

the lists; shall sort, count and declare the votes in open meeting and in the presence of the clerk, who shall make a list of the persons voted for, with the number of votes for each person, and a fair record thereof, in presence of the warden and in open meeting, and a copy of the list shall be attested by the warden and clerk, sealed up in open meeting, and delivered to the clerk of ward number one, within eighteen hours after the close of the polls, to become a part of the record of said ward; and all votes thus thrown shall be deemed as thrown in and belonging to ward number one. All meetings of the voters of said island ward, for choice of municipal officers, shall, after the business of the meeting is transacted, stand adjourned for two days, to determine whether an election has been effected; and adjournments may be had, not exceeding two days at any one time, until the election has been effected. If the warden or clerk of said island ward shall be absent at any election, a warden or clerk may be chosen *pro tempore*. Or in case of failure or omission to elect a warden or clerk, said officers may be chosen at any legal meeting duly called in said ward.

Powers of City Council.

SECTION 16. The city council, in behalf of the city, may offer rewards for the prevention of crimes or detection of criminals.[16] They may remove all sunken wrecks in the harbor or its entrances, and dispose of the same to defray the expense of removal, and may, at the expense of the city, cause its harbor to be kept open and unobstructed by ice. They may also require all sail boats not under register or license, kept for hire in said harbor, to be examined and licensed for that purpose, and to be furnished with air-tight compartments; and may establish such regulations respecting such boats as they may deem expedient. They may also make and enforce by penalties, regulations respecting the enclosure of lots abutting on any street or way in the city, which may for want of such enclosure, be dangerous to the public; and after notice to

Ibid.

[16] Private laws of 1875, c. 21, give further power to city council as follows: "The city council of the city of Portland shall have the power to purchase and take, in the name of the city, real and personal property for municipal purposes to an amount not exceeding two hundred thousand dollars, in addition to that now held by the city."

the owners or lessees of such lots, may, if the same are not enclosed in a reasonable time, cause the same to be enclosed at the expense of the owners or lessees. They may make regulations relative to the assize of bread sold, or offered for sale within said city. They may assess money for celebration of the anniversary of our national independence, and other public celebrations.

City clerk; his duties.

SECTION 17. The city clerk shall be clerk of the board of aldermen. He shall perform such duties as shall be prescribed by the mayor and aldermen or the city council, and shall also perform all the duties and exercise all the

Ibid.

powers now incumbent on him by law. He shall give notice in two or more of the papers printed in said city, of the time and place of regular ward meetings; the time of such meetings when not fixed by law, shall be determined by the board of aldermen. In case of the temporary absence of the city clerk, the mayor and aldermen may appoint a city clerk *pro tempore*.

Meetings of citizens.

SECTION 18. General meetings[17] of the citizens qualified to vote in city affairs, may from time to time be held to consult upon the public good, to instruct their representatives, and to take all lawful measures to obtain redress of any grievances, according to the right secured to the

Ibid.

people by the constitution of this State; and such meeting shall be duly warned by the mayor and aldermen upon requisition of sixty qualified voters. The city clerk shall act as clerk of such meetings, and record the proceedings upon the city records.

No compensation, &c.

SECTION 19. The aldermen and common councilmen[18] shall not be entitled to receive any salary or other compensation during the year for which they are elected, nor be eligible to any office of profit or emolument, the salary of which is payable by the city; and all departments, boards, officers and committees, acting under the authority

Ibid.

of the city, and entrusted with the expenditures of public

[17] R. S., 1871, c. 3, § 4, and laws of 1873, c. 153, provide for calling of general meetings on petition of *ten* citizens.

Special laws conferring particular rights upon municipal corporations, are held not to be repealed by subsequent statutes, general in their character. Ottawa *v.* County, 12 Ill. 339; State *v.* Morristown, 33 N. J. Law, 57; Dillon on Mun. Corp's, § 54. See also, State *v.* Cleland, 68 Maine, 258.

[18] *Supra* § 7.

money, shall expend the same for no other purpose than that for which it is appropriated; and shall be accountable therefor to the city, in such manner as the city council may direct.

SECTION 20. The treasurer of the city of Portland shall also be the collector for said city with all the powers of collectors of taxes under the laws of this State. He shall be styled treasurer and collector and shall give but one bond, said bond to be approved by the mayor and aldermen, for the faithful performance of his duties; and may appoint assistants and deputies as provided by law. All warrants directed to him by the assessors and municipal officers shall run to him and his successors in office, and shall be in the form prescribed by law, changing such parts only as by this act are required to be changed. The method of keeping, vouching and settling his accounts, shall be subject to such rules and regulations as the city council may establish. Said treasurer and collector shall collect all such uncollected taxes and assessments in whatever year assessed as may be collected during his term of office; and at the expiration of said term, his powers as collector shall wholly cease; all sales, distresses, and all other acts and proceedings, lawfully commenced by him as such treasurer and collector, may be as effectually continued and completed by his successor in office as though done by himself; and all unreturned warrants, which would otherwise be returnable to him, shall be returned to his successor in office. These provisions shall apply in all respects to the uncollected taxes of said city, assessed in the year eighteen hundred and sixty-three, but shall not in any way be construed to affect the collection of taxes assessed in other previous years.

Powers and duties of treasurer.

Ibid.

SECTION 21. The original location[19] of all streets and ways in said city shall, once in ten years, or oftener, be ascertained by the city engineer, under the direction of the city council, as accurately as practicable, the location of different streets being ascertained by him from time to time, when expedient. He shall make a written report of his doings to the committee on new streets, which shall

Location of streets.

Ibid.

[19] See plans in City Engineer's office.

give twenty days' notice, by advertisement in two or more public papers in the city, of the time and place at which it will act upon said report. Any person may appear and object to the report; and after a full hearing of all parties interested, the committee may accept, alter, or amend the report as it shall think right, and shall report their proceedings to the city council, who shall thereupon determine the lines for such streets and ways in said city, according to the original location thereof, and shall order the same to be designated anew by fixed and permanent boundaries, as and for the original boundaries; and a record of the location thereof to be made upon the city records; and a copy of the last record of such proceedings respecting any street, with evidence of the location of the boundaries therein designated, shall in all judicial proceedings, be *prima facie* evidence of the place of the original location of said street.

Passing of horses, &c., in streets.

Ibid.

SECTION 22. The mayor and aldermen of said city may on public occasions, by their order, forbid the passing, temporarily, of horses, carriages or other vehicles, over or through such streets or ways in said city, as they may deem expedient. No existing wharf in Portland[20] shall be extended into the harbor a greater distance below water mark than the same now exists, and hereafter no such new wharf shall be extended below low water mark into the harbor, without in either case the written assent of the mayor and aldermen. No wharf or incumbrance shall hereafter be erected or extended into said harbor beyond the harbor commissioners' line.

Extension of wharves.

Paving Sidewalks.

Ibid.

SECTION 23. The city council of Portland[21] may require the owner of any lot of ground fronting on any street or way in said city, to cause the footway or sidewalk in front of said lot to be paved with bricks or flat stones, with suitable curb stones, the same to be done under the direction, and to the approbation, of the committee on streets. If the owner of such lot shall neglect to pave the same as aforesaid, and provide such curb stones, for the space of twenty days after he, or the tenant of such lot, shall have been thereto required in writing by the commissioner of

[20] See title "Wharves." [21] See § § 28 and 29, *post*.

streets, it shall then be the duty of said commissioner to procure the curb stones and pave the sidewalk or footway; and the city shall have a lien on the property for expense thereof, to be enforced as in the following section.[22] The city council before requiring any such sidewalk or footway to be so paved, shall by a general ordinance assume a portion of said expense to an amount not less than one-half thereof, to be paid by the city in money or materials, but no owner or proprietor shall be required to construct as aforesaid, more than two hundred feet in length of sidewalk or footway, in any one street in front of any unimproved lots or parcels of land.

Drains and sewers.

SECTION 24. The mayor and aldermen of said city may lay out, maintain and repair[23] all main drains or common sewers in said city, and may assess upon the owners of the abutting lots and other lot benefited thereby, and who shall enter the same directly or indirectly, a proportional part of the charge of making such main drain or common sewer, to be ascertained and assessed by the mayor and aldermen of said city, and by them certified, after notice thereof given in writing to the party to be charged, or by public advertisement for seven days in two daily papers in said city; but not less than one-third part of the cost of such main drain or common sewer shall be paid by the city, and shall not be charged to the abuttors. All assessments so made shall constitute a lien on the real estate so assessed, for two years after they are laid. They shall be certified by the mayor and aldermen, under their hands, to the treasurer and collector of said city and his successors, with directions to collect the same according to law, and may, together with all incidental costs and expenses, be levied by sale of the estate by him or them, if the assessment is not paid within three months after a written demand of payment made by him or them, either upon the persons assessed or upon any person occupying the estate—such sale to be conducted in like manner as sale for non-payment of taxes on land of resident owners, and with a similar right of redemption. Any person, who

Ibid.

[22] "Sidewalks," ordinances, § § 54, 55, *post*.

[23] Drains and sewers, *post*. Private laws 1871, c. 717; 1870, c. 348; 1873, c. 368.

may deem himself aggrieved by any such assessment, may appeal to the Supreme Court in the same manner as is herein provided for appeals for damages for laying out streets, which court shall at the first term appoint three persons who may be inhabitants of said city, to settle and assess the share to be charged to such appellant; they shall make a return of their doings to said court and their decision, if accepted, shall be final. And in case the assessment made by the mayor and aldermen shall not be reduced on such appeal, the city shall recover costs, but otherwise shall pay costs. Any person who shall, directly or indirectly, enter any such main drain or common sewer without first obtaining a permit from the mayor therefor, shall be subject to a fine not exceeding one hundred dollars.

Repeal of prior acts.

SECTION 25. All acts and parts of acts inconsistent with this act are hereby repealed. Provided, however, the repeal of the said acts shall not affect any act done, or any act accruing, or accrued, or established, or any suit or proceeding had or commenced in any civil or criminal case before the time when such repeal shall take effect, and that no offence committed, and no penalty or forfeiture incurred, under the acts hereby repealed, and before the time when such repeal shall take effect, shall be affected by the repeal. And provided, also, that all persons who, at the time the said repeal shall take effect, shall

Ibid.

hold any office under the said acts or ordinances of the city shall continue to hold the same according to the tenure thereof, or until others are elected and qualified in their stead. And provided, also, that all the ordinances rules and regulations of the city of Portland, which shall be in force at the time when the said repeal shall take effect, shall continue in force until the same are repealed. No act which has been heretofore repealed shall be revived by the repeal of the above acts.

Vote of qualified voters on this act.

SECTION 26. This act shall be void unless the inhabitants of the city of Portland, at legal ward meetings called for that purpose, by a written vote, determine to adopt the same; and the qualified voters of the city shall be called

Ibid.

upon to give in their votes upon the acceptance of this act,

at meetings in the several wards, duly warned by the mayor and aldermen, to be held on the day of the next municipal election; and thereupon the same proceedings shall be had respecting the sorting, counting, declaring and recording the returns of said votes as is herein provided at the election of mayor; and the board of mayor and aldermen shall within three days meet together and compare the returns of the ward officers; and if it appear that a majority of all the votes given on the question of its acceptance are in favor thereof, the mayor shall forthwith make proclamation of the fact, and thereupon this act shall take effect. And in case this act is so adopted and takes effect, the terms of office of all city officers which would otherwise expire in April, in the year of our Lord eighteen hundred and sixty-four, shall expire on the second Monday of March, in the year of our Lord eighteen hundred and sixty-four, or as soon thereafter as other persons are qualified in their places; subordinate officers shall be elected in April, eighteen hundred and sixty-three, at the time now fixed by law.*

Act additional about sidewalks, 1870, c. 348, § 1.

SECTION 27. The city of Portland may at their option, require the owners of adjacent property to construct footways or sidewalks as now provided in the act to which this is additional, notwithstanding anything herein contained.

Charter further amended in relation to sidewalks.

SECTION 28. The city of Portland may at their option without notice, and under such regulations or orders as they may have established or passed, or may hereafter establish or pass, construct sidewalks or footways, laid with brick, flat stones, concrete, or other materials, with suitable curbs, on any street or portion thereof, and direct one-half the cost thereof to be assessed on adjacent lots, and for that purpose may direct the curb to be set at any time previous to the construction of the walk, and cause the cost of the curb and the cost of the paving of the walk to be assessed separately, as each is or may be done; provided that no owner or proprietor shall be assessed for more than two hundred feet in length of sidewalk or footway, on any one street in front of any unimproved lots or parcels of land.

City may construct sidewalks; and one-half of the costs to be assessed on adjacent lots. 1870, c. 348, and 1871, c. 647.

*NOTE.—The city charter of March 24, 1863, ends at this point. The following sections are acts additional to and amendatory of said charter.

Estimates and assessments shall be made within a year.

1870, c. 348, § 3.

SECTION 29. The expense of said walks complete, or of said curbs, or of said paving, shall be estimated and assessed within one year, by the mayor and aldermen of said city on the several lots chargeable therewith, and by them certified to the city treasurer, in the manner and with all rights to the parties interested, as provided in section twenty-four of the act to which this is additional, and be enforced as therein provided, but said assessment shall at any time be corrected on due notice, and certified anew by the mayor and aldermen aforesaid, and no assessment shall be void by reason of error in the name of the owner or occupant of the lot assessed, provided the lot assessed is so described that the same may be distinctly known.

Assessments not void by reason of error.

Proviso.

To what these provisions apply.

Ibid. § 4.

SECTION 30. The provisions of the last section shall apply to all assessments of the cost of constructing any sewer heretofore or hereafter made in the city of Portland.

City of Portland may make ordinances for Evergreen Cemetery.

Healing act for present ordinances.

Private laws, 1881, Jan. 31.

SECTION 31. The city of Portland may ordain reasonable by-laws and regulations for the government of Evergreen Cemetery,[24] and shall have full power and authority to impose and enforce penalties for the breach thereof, and for the punishment of offences committed in said cemetery. All by-laws and regulations heretofore ordained by said city of Portland for the government of Evergreen Cemetery are, and shall be valid and in force; and all penalties imposed under the same, and for the breach of the same and for punishment of offences committed in said cemetery, shall be enforced.

Mayor and aldermen to have power to send for persons and papers in certain cases.

SECTION 32. The mayor and aldermen of the city of Portland shall have power to send for persons and papers, and compel the attendance of witnesses at any meeting of said board of mayor and aldermen at which a hearing is

[24] See title "Cemetery," and ordinance of January 3, 1881, making full regulations.

NOTE.—The more general powers and duties of cities and towns are contained in chapters 3 and 4, *et seq.* of the Revised Statutes of 1871. The most important provisions of those chapters and of other chapters of the Revised Statutes relating to municipal affairs, are incorporated in the following pages under the subjects to which they relate.

Revised Statutes 1871, c. 1, § 4, provides that the word "town," includes cities and plantations unless otherwise expressed or implied, and that the term "municipal officers," shall be construed to mean the mayor and aldermen of cities, selectmen of towns, and assessors of plantations.

had in any matter of inquiry regarding alleged dereliction of duty of any city officer or any person in the employ of said city, or in any hearing on any municipal matter. The mayor shall have power to issue summons to such witnesses as he shall require in such hearings. Private laws, 1881, March 7, § 1. Mayor to summon. Ibid. § 2.

SECTION 33. Any person failing to comply with the summons of the mayor shall be punished by fine not less than five dollars nor more than fifty dollars or by imprisonment not more than thirty days. Penalty. Ibid. § 3.

LAWS OF THE STATE

RELATING TO MUNICIPAL MATTERS, AND

ORDINANCES OF THE CITY.

Agents of the City.

Statutes.

FOR SALE OF INTOXICATING LIQUORS.

1. Mayor, &c., to purchase. Agent appointed. Agent's power and duty.
2. Certificate to and bond by agent.
3. Liquors kept by agents — marks — false marks, &c.
4. Not to sell to minors.
5. Agents violating the law. Bond put in suit. Authority to cease.
6. Agents to keep record of sales.
7. Agents to purchase of State Commissioner.
8. Penalty for purchasing contrary to law and for adulterating.

Ordinances.

1. Agent to pay moneys to treasurer.
2. Treasurer to receipt for same.
3. Moneys how appropriated.
4. Balance to credit of agency.

Statutes.

1. The selectmen of any town, and mayor and aldermen of any city, may on the first Monday of May annually, or as soon thereafter as may be convenient, purchase such quantity of intoxicating liquors as may be necessary to be sold under the provisions of this chapter, and may appoint some suitable person, as the agent[1] of said town or city, to sell the same at some convenient place within said town or city, to be used for medicinal, mechanical

Mayor and aldermen may purchase.

R. S., 1871, c. 27, § 26. 1872, c. 59.

Agents to be appointed to sell for certain purposes.

[1] Such agent is not a city or town officer. His situation is not an office but an employment, which ceases if not renewed at end of the year. He does not hold over until his successor is chosen, by virtue of R. S., 1871, c. 3, § 25; nor is the mode of his appointment by c. 3, § 27, but by c. 27, § § 26 and 27. State *v.* Weeks, 67 Maine, 69.

—compensation and duty.

and manufacturing purposes, and no other; and such agent shall receive such compensation for his services, and in the sale of such liquors shall conform to such regulations, not inconsistent with the provisions of law, as the board appointing him shall prescribe, and he shall hold his situation one year unless sooner removed by them or their successors in office. Vacancies occurring during the year are to be filled in the same manner as original appointments are made. No such agent shall have any interest in such liquors, or in the profits of the sale thereof. Such agents may sell to such municipal officers intoxicating liquors, to be by said officers disposed of in accordance with the provisions of this chapter.

—term of office.

—vacancy, how filled.

Agents not to be interested..

—may sell to municipal officers.

Agent who violates provisions of c. 26, forever disqualified from holding such office.

If any agent, appointed under above provisions, to sell intoxicating liquors, shall be convicted of violating any of the provisions of said chapter twenty-six, he shall forever thereafter be disqualified from holding such office.

1872, c. 73. —shall have a certificate. R. S., 1871, c. 27, § 27.

2. Such agent shall receive a certificate from the board by which he is appointed, authorizing him as the agent of such town or city to sell intoxicating liquors for medicinal, mechanical and manufacturing purposes only; but such certificate shall not be delivered to the person so appointed until he shall have executed and delivered to said board a bond, with two good and sufficient sureties, in the sum of six hundred dollars, in substance, as follows :[2]

—shall give bond, amount.

Form of bond.

Know all men, that we, —— as principal, and ——, as sureties, are holden and stand firmly bound to the inhabitants of the town of ——, (or city, as the case may be,) in the sum of six hundred dollars, to be paid them, to which payment we bind ourselves, our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this —— day of —— A. D, ——.

Condition of bond.

The condition of this obligation is such, that whereas the above bounden —— has been duly appointed an agent for the town (or city) to sell intoxicating liquors for medicinal, mechanical, and manufacturing purposes and no other, until the —— of —— A. D. ——, unless sooner removed from said agency. Now if the said —— shall in all respects conform to the provisions of the law relating to the business for which he is appointed, and to such regulations as now are or shall be from time to time established by the board making the appointment, then this obligation to be void; otherwise to remain in full force.

[2] Foxcroft *v.* Crooker, 40 Maine, 308; Wills *v.* Greeley, 50 Maine, 78.

3. No[3] such liquors owned by any city, town or plantation, or kept by any agent of any city, town or plantation, as is provided in this act, shall be protected against seizure and forfeiture, under the provisions of this act, by reason of such ownership, unless all the casks and vessels in which they are contained shall be at all times plainly and conspicuously marked[4] with the name of such city, town or plantation, and of its agent. When any such liquors shall be seized, bearing such marks as are by this act required to be upon liquors owned by cities, towns or plantations, if such liquors are in fact not owned by any such city, town or plantation, such false and fraudulent marking shall be conclusive evidence that the same are kept or deposited for unlawful sale, and render them liable to forfeiture under the provisions of this chapter. The liquors kept for sale by such agents shall not be adulterated or factitious, and shall not be protected from seizure and forfeiture by reason of being kept for sale by such agents, if so adulterated or made factitious and they have knowledge of the fact.

Liquors owned by towns or kept by agents, casks and vessels to be marked.

Ibid. § 51.

—seized, bearing marks.

—false marks conclusive evidence, liquors forfeited.

—adulterated or factitious, not protected.

4. No person authorized as aforesaid to sell intoxicating liquors shall sell such liquors to any minor without the direction in writing of his parent, master or guardian, to any Indian, to any soldier in the army, to any drunkard, to any intoxicated person, or to any such persons as are described in the fourth section of the sixty-seventh chapter of the revised statutes, as being liable to guardianship, knowing them respectively to be of the condition herein prescribed; nor to any intemperate person, of whose intemperate habits he has been notified by the relatives of such person, or by the aldermen. And proof of notice so given by the aldermen, or by their authority, shall be conclusive of the fact of the intemperate habits of such person. It is the duty of the aldermen when so informed of the intemperate habits of any person to give notice to all agents for sale of liquors in their city and in such adjoining places as they may deem expedient.

Agents not to sell to minors or others described.

Ibid. § 52.

—notice by aldermen or relatives, sufficient evidence.

Aldermen to give notice to agents.

Ibid. § 53.

[3] Kidder *v.* Knox, 48 Maine, 599.

[4] Liquor may be seized if casks are not marked. State *v.* Belfast, 68 Maine, 187.

Agents violating the law.

5. Any agent authorized as aforesaid who shall violate the law by illegal sale, shall be punished, on conviction, by a fine of twenty dollars for every such offence, and shall also be liable to a suit upon his bond; and it is the duty of the aldermen to cause the same to be put in suit, and prosecuted to the use of the city. And whenever conviction is obtained or judgment recovered on the bond, the authority of the agent is absolutely vacated, and it is the duty of the aldermen to revoke such authority, whenever they shall be satisfied of the violation of any of the conditions of the same.

Duty of aldermen to put bond in suit. Ibid. § 54. For full provisions see stat.

Agent's authority to cease. Aldermen to revoke authority.

City, town and plantation agents required to keep record of sales. Ibid. § 18.

6. The agents of towns authorized to sell intoxicating liquors, shall keep a record in a book kept for that purpose, of the amount of intoxicating liquors purchased by them, specifying the kind and quantity of each, the price paid, and of whom purchased; and they shall also keep a record of the kind and quantity of the liquors sold by them, the date of sale and the price, the name of the purchaser, and the purpose for which it was sold; specifying in case such sale is made to the municipal officers of any other town, the name of such, which shall be open to inspection. And if such agent fails to keep such a record he shall forfeit and pay for every such offence a sum not less than ten nor more than twenty dollars, to be recovered on complaint or indictment before any court competent to try the same, to the use of his town. And if any person knowingly misrepresents to the said agent the purpose for which he purchases the intoxicating liquors, he shall for such offence be fined twenty dollars, to be recovered on complaint or indictment before any court competent to try the same, to the use of his town.

—to be open for inspection.

—failure or neglect to keep, penalty for.

—how recovered.

Fines, to whom paid.

False representation to agents.

Penalty for, how recovered.

Agents to purchase of State Commissioner.

Ibid. § 15.

7. Immediately after appointing a State commissioner, the Governor shall issue to the municipal officers of the towns of this State, a notice of the name and place of business of said commissioner and such municipal officers shall purchase such intoxicating liquors, as they may keep on sale for the purpose specified therein, of such commissioner or of such other municipal officers as have purchased such intoxicating liquors of him, and of no other person or persons.[5]

Ibid. § 16

[5] Liquors purchased without authority, are liable to seizure. State *v.* Belfast, *supra.*

8. If any municipal officer or officers shall purchase any intoxicating liquors, to be sold according to the provisions of the laws of this State, of any other person or persons except those specified in the preceding section, or if he or they or any person or persons in his or their employ or by his or their direction, shall sell or offer for sale any such liquors that have been decreed to be forfeited, or shall adulterate or cause to be adulterated any intoxicating spirituous or malt liquors, which he or they may keep for sale under this chapter by mixing with the same any coloring matter, or any drug or ingredient whatever, or shall mix the same with other liquors of a different kind or quality, or with water, or shall sell or expose for sale such liquor so adulterated, knowing it to be such, he or they shall forfeit for such offence to the city to which he or they may belong and for the use of said city, a sum not less than twenty nor more than one hundred dollars, to be recovered by indictment.

Penalty for purchasing liquors contrary to law, or for adulterating same.

Ordinances.

1. All moneys received by the city agent for the sale of intoxicating liquors, by virtue of his office, either from sale of liquors or from any other source, shall be by him paid over to the city treasurer, at the end of each week, during his term of office.

Disposal of funds received from liquor agency.

2. The city treasurer shall receipt for the money so received, and shall keep a separate account with said liquor agency, in which all the moneys so received shall be credited, and all sums expended under the provisions of the following section of this ordinance shall be charged.

Treasurer to receipt.

3. The moneys so received are hereby appropriated, so far as required, for the purchase of liquors and to defray the expenses of said agency, and for

Ord. Jan. 17, 1871.

other purposes connected therewith, but they shall not be paid out of the city treasury until the bills therefor have been examined and approved by the committee on the agency for the sale of intoxicating liquors, and by the mayor.

How approved.

4. Any balance or surplus of said moneys remaining in the treasury after the disbursements and expenditures mentioned in the preceding section, shall stand to the credit of said agency until otherwise disposed of by the city council, and shall not constitute any portion of the sinking fund.

Balance to agency.

Amusements.

Statutes.

INCLUDING THEATRES, CIRCUSES, BOWLING ALLEYS, BILLIARD ROOMS, &c.

1. Penalty for exhibiting pageantry, &c., without a license.
2. Licenses for above, how granted; fee.
3. Penalty for keeping bowling alley without license.
4. Licenses for alleys and billiard rooms; fee.
5. Bond to be given.
6. Bond violated, to be revoked.
7. Penalty for violation.

Penalty for exhibiting pageantry, &c., without a license. R. S., 1871, c. 29, § 1.

1. If any person, for money or other valuable article, exhibits in this State any images, pageantry, slight of hand tricks, puppet show, circus, feats of balancing, wire dancing, personal agility, dexterity or theatrical performances, without a license therefor as hereinafter provided, he shall forfeit, for every such offence, not more than one hundred, nor less than ten dollars; but this prohibition shall not extend to any permanently established museum.

Licenses how granted; fee. Ibid. § 2.

2. The municipal officers of towns may grant licenses for any of the foregoing exhibitions or performances therein, on receiving for the use of their town such sum as they deem proper; twenty-four hours being allowed therefor; and they shall prosecute, by an action of debt, in the name and for the use of their town, all persons violating the provisions of the above section.

Penalty for keeping bowling alley or Billiard room without license.

3. No person shall keep a bowling alley or billiard room without a license, under a penalty of ten dollars for each day, to be recovered on complaint or indictment to the use of the person prosecuting.

Ibid. § 3, 1873. c. 109.

4. The municipal officers of towns may license suitable persons to keep bowling alleys and billiard rooms therein, in any place where it will not disturb the peace and quiet

Licenses, how granted; fees.
R. S., 1871, c. 29, § 4.
1881, c. 13.

of a family, for which the person licensed shall pay ten dollars to the use of such town, and such licenses shall expire on the first day of May next, after they are granted, unless sooner revoked.

Bond to be given,
R. S., 1871, c. 29, § 5.

5. Every person licensed to keep a bowling alley or billiard room shall at the time he receives his license, give a bond to the town with two good and sufficient sureties in a sum not less than one hundred dollars, conditioned that he will not permit any gambling, or drinking of intoxicating liquors in or about his premises, or any minor to play or roll therein without the written consent of his parent, guardian or master, or his alley or billiard room to be opened or used from ten o'clock in the evening to sunrise.

Bond violated, license to be revoked, &c.
Ibid. § 6.

6. If any person, so licensed, violates any of the conditions of his bond, the municipal officers, on being furnished with proof thereof, shall revoke the license and enforce the payment of the bond for the use of their town; and no person whose license is so revoked, shall afterwards be licensed in said town for such purpose.

Penalty for violations.
Ibid. § 7.

7. The keeper of any bowling alley or billiard room, who violates any of the provisions of section five shall forfeit ten dollars for the first offence, and twenty dollars for each subsequent offence on complaint or indictment to the use of the person prosecuting; and any marshal, sheriff, police or other officer, may at any time enter said bowling alley or billiard room, or rooms connected therewith, for the purpose of enforcing this or any other law; and any person who obstructs his entrance shall forfeit not less than five, nor more than twenty dollars.[1]

[1] The penalties provided in this section, may be recovered by complaint, indictment or action of debt, to the use of the person so prosecuting.

See State *v.* Haines, 30 Maine, 65.

For statutes in regard to prize fights and game cocks, see 1873, c. 146.

Public Assemblies.

AND THE BUILDINGS WHEREIN PUBLIC MEEEINGS ARE HELD AND CROWDS ARE COLLECTED.

Statutes.

1. Assemblies not to be broken up.
2. Assemblies public. Egress from.
3. Duty of Mayor and Aldermen.
4. Inner doors of public buildings must open *outwards*.
5. Outer doors must be open.
6. Fire Escapes.
7. Penalty.
8. Duty of municipal officers when complaint is made.

Penalty for disturbing public meeting. 1879, c. 101.

1. Whoever, by rude and indecent behavior, disturbs any public meeting or assembly, or creates any disturbance in any hall, walk, or corridor adjacent or leading to the room where such public meeting or assembly may be held, shall be punished by a fine not less than five dollars, or imprisonment not exceeding thirty days.[1]

Egress from assemblies. 1878, c. 70.

2. The mayors and aldermen of cities and the selectmen of towns are hereby authorized and empowered to determine whether or not any hall or building, now erected or hereafter to be erected, and used for the assemblages of citizens, is provided with suitable facilities of egress in case of fire or other casualty.

Duty of Mayor and Aldermen. Notice and proceedings.

3. Upon complaint in writing, made by one or more citizens to the mayor and aldermen, or selectmen, stating that a building or hall, and describing the same, used for assemblages of citizens, is not provided with sufficient facilities of egress in case of fire or other casualty, the said mayor and aldermen, or selectmen, shall assign a day and place of hearing upon said complaint, and give to the

[1] For law with regard to unlawful assemblies, see R. S., 1871, c. 123, § 2. State *v.* Boies, 34 Maine, 235.

owner or owners of said hall or building at least seven days' written notice thereof; and at the time and place appointed, shall meet and hear the party or parties in interest, and receive all evidence relating to said complaint and the subject thereof, and may view the premises; and thereupon said mayor and aldermen, or selectmen, shall decide and determine upon the sufficiency of the means of egress from said hall or building and what, if any, additional facilities therefor are necessary; and if they shall find there is an insufficiency of facilities of egress from said building or hall, and shall so decide, they shall notify the owner or owners therof of said decision; and said mayor and aldermen, or selectmen, may forbid the use of said building or hall for assemblages of citizens until such additional facilities of egress as they shall have found necessary shall have been furnished; and if the owner or owners of said building or hall shall let or use the same in violation of the order of the said mayor and aldermen, or selectmen, so as above made, said owner or owners shall forfeit not less than twenty nor more than fifty dollars for each offense, to be recovered in an action of debt to the use of said city or town.

Inner doors must open *outwards*. 1881, c. 50, § 1.

4. Any church, theatre, hall or other building or structure intended to be used temporarily or permanently for any public purpose, or any schoolhouse or schoolroom, public or private hereafter constructed, shall have all inner doors intended to be used for egress therefrom open outwards.

Outer doors *open*. Ibid. § 2.

5. All outer doors of buildings or structures of the kind mentioned above constructed or hereafter to be constructed, shall be kept open when such buildings or structures are used by the public, unless such doors open outwards, and except that fly-doors opening both ways may be kept closed.

Fire Escapes and ladders on certain buildings.

Ibid. § 3.

6. All hotels used for the accommodation of the public, and all shops, mills, factories and other buildings, more than two stories in height, in which any trade, manufacture or business is carried on, which requires the presence of workmen or other persons in any part of the building above the first story, shall be provided with such suitable

and sufficient fire-escapes, outside stairs or ladders, as the municipal officers shall deem to be sufficient to afford safe and easy escape from the building in case of fire, and such fire escapes or ladders shall be attached to the building or be stored outside of such building, and convenient thereto, as the municipal officers shall direct, and shall be of such length and number as said officers shall approve.

Penalty, Ibid. § 4.

7. Whoever violates the provisions above, shall forfeit the sum of fifty dollars, and a further sum of five dollars per day for every day's continuance thereof, to be recovered by and for the use of the town or city where such building is located, in an action on the case, or by indictment.

Duty of Municipal officers, on complaint. Ibid. § 5.

8. Whenever complaint is made to the municipal officers of any town, that any building of the kind mentioned in the three preceding sections now or hereafter to be constructed, is deficient in facilities for egress by reason of the inner doors thereof opening inwards, or for the want of fire-escapes, outside stairs or ladders hereinbefore specified, it shall be the duty of such municipal officers to give notice to all parties interested in said matter, and to inspect such building, and if they find the same so deficient, they shall notify the owner, occupant, lessee, or other person having charge thereof, and require of him such changes as shall be necessary to make said doors open outwards, and to provide suitable and sufficient fire-escapes, outside stairs or ladders to be attached or stored as herein provided, and such person shall be allowed thirty days to make such changes and provisions, and if he shall neglect or refuse to make and provide the same within said time, he shall forfeit the sum of fifty dollars, and an additional sum of five dollars per day for every day's continuance of such neglect or refusal to comply with the provisions of this act, to be recovered by and for the use of the city or town where the building is located, in an action on the case or by indictment.

Auctions and Auctioneers.

Statutes.

1. License.
2. If refused, appeal to county commissioners.
3. To keep account of sales.
4. Penalty for allowing non-voter in the State to sell.
5. Penalty for receiving goods of minors, &c.
6. Sale of real estate in two towns. Penalty.
7. Penalty for permitting unauthorized persons to sell.
8. Exceptions of sales by sheriffs, &c.
9. Fines, how imposed and recovered.
10. Special licenses to any voter in the State.

Ordinance.

1. No person to sell in streets of city, except in places assigned by mayor and aldermen.
2. Penalty for violation.

Statutes.

Municipal officers to license auctioneers and keep a record thereof. Fees. R. S., 1871, c. 34, § 1. 1878, c. 28.

1. The municipal officers of any town may license any legal voter of their town by a writing under their hands, to be auctioneers for one year, in any town in said county; and shall record every such license in a book kept by them for that purpose. Persons so licensed may be exempted from any liability to deduct two and one half per cent. from the gross amount of sales, as provided in section three of chapter thirty-four of revised statutes. Persons so licensed shall, upon receipt of such license, pay to the treasurer of said town the sum of two dollars, and by him paid into the treasury for the use of the town where such license is granted.

Appeal to county commissioners, in case of refusal. R. S., 1871, c. 34, § 2.

2. If such officers, after written application to them for a license, unreasonably refuse or neglect to grant it, the applicant, by giving them ten days' notice and a bond to pay all costs arising thereafter, may appeal to the county commissioners, who, after a hearing of the parties, may grant the license if they judge it reasonable.

Auctioneers to keep account of goods sold, &c. Ibid. §3.

3. Every person licensed shall keep a fair and particular account of all goods and chattels by him sold, stating of whom received, and the price for which the same were sold, and, unless otherwise authorized, if said goods are sold voluntarily for the benefit of parties residing out of the State, he shall deduct two and a half per cent. from the gross amount of the sales for the use of the town, where the sale is made, and pay the same to the treasurer thereof within ten days after the sale; and in default thereof, he shall be liable to a fine of not less than fifty, nor more than three hundred dollars, and forfeit his license.[1]

Penalty for allowing any one not a voter in the town, to act under him. Ibid. § 4.

4. No auctioneer shall allow any person, not a legal voter in the town from which he received his license, to act for or under him in any sales by public auction, under penalty of fifty dollars for each offence; and any person so acting shall be subject to the same penalty.

Penalty for receiving goods of minors or servants, &c. R. S., c. 34, § 5. Special license to sell after sunset.

5. If any auctioneer receives any goods for sale, at public auction, of any servant or minor, knowing him to be such, or sells any goods before sunrise, or after sunset, at public auction, he shall forfeit a sum not less than fifty nor more than one hundred and seventy dollars for each offence; but the municipal officers of any town, may license any duly licensed auctioneer specially to sell after sunset upon payment of a sum not exceeding twenty dollars.

Real estate lying in two towns, how sold. Penalty. Ibid. § 6.

6. A parcel of real estate lying partly in one town and partly in another, may be sold by an auctioneer of either; but if any auctioneer sells or offers to sell any real or personal property at public auction in any other towns than those authorized by his license, or if any person sells without a license, he shall forfeit not exceeding six hundred dollars.

Penalty for permitting any person to sell contrary to law, &c. Ibid. § 7.

7. If the tenant or occupant of any building, having actual possession and control thereof, knowingly permits any person to sell any goods or chattels at public auction contrary to the provisions of this chapter, in such building, or in any apartment, or yard appurtenant thereto, he

[1] As to extent of auctioneer's agency, see Horton *v.* McCarthy, 53 Maine, 394.

Memorandum of the contract must be made by auctioneer.

shall forfeit not more than six hundred, nor less than one hundred dollars.

Exceptions as to sales by officers. Ibid. § 8.

8. Nothing in the preceding sections shall extend to sales made by sheriffs, deputy sheriffs, coroners, constables or collectors of taxes, executors or administrators, or any other person authorized to sell goods, chattels, or lands, by order of any court or judge of probate.

Fines how recovered and appropriated. Ibid. § 9.

9. All fines imposed by this chapter may be recovered by indictment in any court proper to try the same; and it shall be the especial duty of city marshals and their deputies, sheriffs, constables and police officers, to make immediate complaint for every offence against the provisions hereof; and one-half of all fines shall be for the use of the prosecutor, and the other for the use of the town where the offence is committed.

Special licenses to inhabitants by State. 1880, c. 182.

10. The municipal officers of any city or town in this state, may grant, upon presentation of an invoice or inventory of the property to be sold, which shall be produced, unless said municipal officers shall decide that the same is unnecessary, a special license to any auctioneer, a legal voter in this state, to sell at public auction, between the hours of seven A. M. and six P. M., upon the payment of five dollars for each and every invoice or inventory; the above license fee to go to the use of said city or town.

Ordinance.

No person to sell at auction in streets of the city.

Mayor and Aldermen to assign places.

Penalty. Rev. ord. 1868. Ord. 1848, c. 8, § 2.

No person shall sell, or expose for sale at auction, any goods, wares, chattels, or other merchandise, in any street, alley, square, or other public place, or on any sidewalk in the city, except in such places as may be assigned by the mayor and aldermen for that purpose. And the mayor and aldermen are hereby authorized to assign such places for the purpose of selling goods at auction, as they shall think expedient. Any person who shall offend against the provisions of this ordinance, shall forfeit and pay a sum not less than five, nor more than twenty dollars.

Boats and Lighters.

Statutes.

1. Boats, &c., for carrying stones, &c., to be inspected.
2. Penalty.
3. Inspectors, how appointed.
4. Lighters, alteration of capacity.
5. Penalty for throwing ballast into harbor, &c.

Lighters carrying stone, sand or gravel, shall be marked, and marks inspected and renewed yearly. R. S., 1874, c. 36, § 18.

1. Every boat or lighter employed in carrying stones, sand, or gravel, shall be marked at light water mark, and at least at five other places, with figures four, twelve, sixteen, twenty-four, and thirty, legibly made on the stem and stern post thereof, expressing the weight such boat or lighter is capable of carrying, when the lower part of the respective numbers touch the water in which it floats; and such marks shall be inspected yearly, and when found illegible in the whole or in part, they shall be renewed.

Penalty for using lighters without marks or falsely marking them. Ibid. § 19.

2. The master or owner, who uses without such marks, and any person, who falsely marks any such boat or lighter, shall forfeit fifty dollars, to be recovered by any person suing therefor in an action of debt.

Municipal officers to appoint inspectors, and regulate fees. Ibid. § 20.

3. The municipal officers of every town, where boats and lighters are employed for the purposes aforesaid, shall annually appoint, in April or May, some suitable person to examine and ascertain the capacities of all such boats and lighters, and mark them as above prescribed, who shall be duly sworn; and said officers shall establish and regulate the fees therefor.

When capacity of lighter has been altered, &c. Ibid. § 21.

4. When such inspector thinks that the burden or capacity of any such boat or lighter is altered by repairs or otherwise, he shall forthwith ascertain the same anew, and mark it accordingly.

Penalty for throwing ballast into any road, port or harbor, &c.

Ibid. § 22.

5. No master of any vessel shall throw overboard any ballast in any road, port, or harbor, on penalty of sixty dollars; and no person shall take any stone or other ballast from any island, beach, or other land, without consent of the owner, under a penalty not exceeding seven dollars for each offence, to be recovered in an action of debt by any person suing therefor, one-half to his own use, and the other to the use of the town, where the offence is committed.

Boundary Lines.

Statutes.

1. Boundaries of Portland.
2. Annexation of part of Westbrook to Portland.

PERAMBULATIONS.

3. Ancient boundaries continue.
4. Town boundaries established by perambulation.
5. Monuments erected.
6. Disputed lines.
7. Line between Portland and Westbrook.

Boundaries of the town of Portland.

Special laws of Massachusetts.

Vol. 1, p 131, § 1.

1. By act of the general court of Massachusetts, passed July 4, 1786, incorporating the town of Portland, the boundaries of said town were described as follows, viz: Beginning at the creek that runs into Round Marsh, so called, thence north-east to Back Cove Creek, thence down the middle of that creek to Back Cove, thence across said Cove to sandy point, thence round by Casco Bay to Fore River,[1] thence up Fore River to the first bounds, together with all the Islands that now belong to the first parish in said Falmouth; and by section ninth of the same act, it was further enacted, that a certain tract of land within the limits of the town of Portland, and containing about one hundred and eighty acres, belonging to Samuel Dean, Joshua Freeman and Elizabeth Wise, and which descended to them from Moses Pearson, Esq., late of Falmouth, deceased, be annexed to the town of Portland and shall be considered as part thereof, and the lands granted to the first parish, in said Falmouth, for the support of the ministry there, are hereby annexed to said town of Portland, and shall be considered as part thereof.

[1] See act, locating a bridge across Fore River by which the limits of the city of Portland are extended, post, title "Vaughan's Bridge."

Annexation of part of Westbrook to Portland. Act 1845, c. 279.

2. The southern half of that part of the old county road running northwardly from the city of Portland, which has the town of Westbrook on the easterly side, and the city of Portland on the westerly side, is hereby set off from the town of Westbrook, and annexed to the city of Portland.

Ancient boundaries continue. R. S., 1871, c. 1, § 1.

3. The bounds of towns continue as established, except as hereafter provided.

Perambulations, proceedings respecting them. R. S., 1871, c. 3, § 41.

4. The municipal officers of the most ancient town shall give ten days' notice in writing to such officers of the adjoining towns of the time and place of meeting for perambulation; and the officers who neglect their duty in notifying or attending in person, or by substitutes, shall forfeit and pay ten dollars, two-thirds to the use of the town which complies with its duty, and the other third to any two or more of said officers of the town complying, to be recovered at any time within two years after the forfeiture is incurred; and the proceedings of such officers, after every such renewal of boundaries shall be recorded in their town books.

Monuments may be erected at angles. Ibid. § 42.

5. All towns, which, since the twenty-second day of March, eighteen hundred and twenty-eight, have perambulated, or hereafter perambulate their several lines as by law prescribed, and set up stone monuments, at least two feet high, at all the corners and several angles, and where the lines cross highways, or on or near the banks of all rivers, bays, lakes, or ponds, which said lines cross, or which are the boundaries of said lines, shall be exempted from the duty of perambulating said lines, except once in every ten years, commencing in ten years from the time the stone monuments were so erected.

Disputed lines of towns, how settled. Ibid. § 43.

6. When a town petitions the Supreme Judicial Court, stating that a controversy exists between it and an adjoining one respecting a town line or lines, and praying that it may be run by commissioners appointed by the court, the court, after due notice to all parties concerned, may appoint three commissioners, who shall, after giving notice to all persons interested of the time and place of meeting, ascertain and determine the line or lines in dispute, and describe them by courses and distances, and make, set,

and mention in their return, suitable monuments and marks for the permanent establishment of such lines, and make duplicate returns of their proceedings; one of which shall be returned to the court, and the other to the office of the secretary of State; and such line or lines, shall be deemed in every court of law and for every purpose the true dividing line or lines between such towns.

7. The boundary line[2] between the city of Portland and the town of Deering, as run by W. A. Goodwin, City Engineer of the city of Portland, is as follows:

Beginning at centre of channel of Back Cove at Deering's Bridge; thence westerly through centre of said channel to east line of old county road now Grove street; thence northwesterly by the easterly line of said road a distance of fifteen hundred thirty-three and fifty-six hundredths (1533.56) feet, to a stone monument; thence at right angles from the easterly to the westerly side line of said old county road a distance of forty-nine and one half (49½) feet, to a stone monument; thence northwesterly on the westerly side line of said road, a distance of fifteen hundred and thirty-three and fifty-six hundredths (1533.56) feet, to a stone monument; thence with an included angle to westward of one-hundred nineteen degrees, eighteen minutes (119° 18′) a distance of twelve hundred seventy-eight and six tenths (1278.6) feet to a stone monument; thence southerly with an included angle of forty-one degrees ten minutes (41° 10′) a distance of five hundred thirty and nine-tenths (530.9) feet, to a stone monument; thence southwesterly with an included angle of one hundred eight degrees thirty-seven minutes, (108° 37′), a distance of twenty-seven hundred twenty and three tenths (2720.3) feet, to a stone monument, standing on the easterly side line of the county road at "Libby's Corner;" thence southeastly with an included angle of eighty-eight

[2] See plans in City Engineer's office, City Engineer's Report of year 1878-9, also city records, vol. 18, p. 452.

"The boundary line between the city and the town of Cumberland, within limits of Casco Bay, has also been run, crossing Little Chebeague, Crow, Hope, Crotch and Jewell's Islands. The work was completed too late in the season for the setting of monuments on the line. The line should be permanently marked and legally perambulated without unnecessary delay."

City Engineer's Report, 1878-9; see also, city records, 1878.

degrees thirty-nine minutes (88° 39′) a, distance of nine hundred twenty-two and one-tenth (922.1) feet, to a stone monument; thence southwesterly with an inclined angle of seventy-seven degrees four minutes (77° 4′), a distance of one hundred and seventy-nine and ninety-two hundredths (179.92) feet, to a stone monument on the easterly side line of the county road last named; thence southwesterly with an angle northward of two degrees eighteen minutes (2° 18′) a distance of seventy-two and four tenths (72.4) feet to a stone monument; thence southwesterly with an angle to northward of three degrees fifty-one minutes (3° 51′ a distance of forty-three and eighty-five hundredths (43.85) feet to a stone monument; thence southwesterly with an angle to southward of thirteen degrees nineteen minutes (13° 19′) a distance of one hundred thirty-six and six tenths (136.6) feet, to a stone monument, thence southwesterly with an included angle of one hundred sixty-five degrees forty minutes (165° 40′) a distance of ten hundred ten (1010) feet to an iron rod standing in canal basin; thence southerly with an angle to northward of twenty-six degrees forty-four minutes (26° 44′), a distance of four hundred and fifty (450) feet, to a stone monument standing in the old tow path of said canal basin; thence same course to centre of channel of Fore river.

Bread.

Statutes.

1. City council authorized to make laws in relation to assize of bread.

1. The city council of the city of Portland is authorized and empowered to ordain and publish such acts, laws and regulations, not inconsistent with the constitution and laws of this State, as shall be deemed by them to be needful and wise, in relation to the assize of bread sold or offered for sale in the city of Portland, so as best to guard against frauds in the sale of said article. City council authorized to make laws in relation to assize of bread. St. 1857, c. 108.

Bridges.[1]

Statutes.

1. Portland to support Pride's and Stroudwater Bridges.
2. Incorporation of the proprietors of Portland bridge. Name changed to Vaughan's bridge. Organization. Tolls, &c. Draw. Time allowed for building bridge. Location.
3. Act authorizing the county commissioners to locate a free bridge over the lines of Vaughan's bridge.
4. Draw, construction and regulation of.
5. Expense of constructing bridge, how paid. Bridge, territorial limits, regulations of. Additional powers of county commissioners.
6. Proceedings of county commissioners in regard to laying out said bridge.
7. Deering bridge laid out by Portland.
8. Back Cove bridge, incorporation of. Location. Restrictions.
9. Additional act. Draw and piers. Extension of time as a toll bridge.
10. Reduction of tolls. Further extension of time as a toll bridge.
11. Portland authorized to receive and maintain Back Cove bridge.
12. To be maintained as a free bridge.
13. City to have authority to construct said bridge for the purpose of a dam. May occupy flats.
14. Draw. Vessels to pass free of expense.
15. Assess a tax for support of bridge.
16. Portland bridge. Incorporation of proprietors. Location.
17. Draw. Piers. Vessels to pass free of expense.
18. Surrender of bridge to county of Cumberland by proprietors. Acceptance and establishment as a free bridge.
19. Powers given to county commissioners to establish a side passage to Canal street.

[1] Word "highway" may include bridges. R. S., 1871, c. 1 § 4.

For penalty for injuring or obstructing bridge, see R. S., 1871, c. 127, § 4, and 30 Maine, 182.

See also, title "Streets."

See also, law imposing fine of $3 for fast driving on bridge, and recent law providing for complaint of municipal officers, 1881, c. 7. R. S., 1871, c. 19.

PRIDE'S AND STROUDWATER BRIDGES.

Town of Portland to support Pride's and Stroudwater bridges.

Mass. special laws, July 4, 1786, § 8.

1. In the act of the Massachusetts legislature, incorporating the town of Portland, the following provision in regard to bridges in that part of Falmouth now called Westbrook, was enacted, viz:—"And be it further enacted that the inhabitants of the town of Portland shall from time to time amend and repair Pride's bridge on Presumpscot river and the great bridge, so called, (now called Stroudwater bridge[2]) on Fore river, although the same be not included within the limits of Portland, aforesaid."[3]

VAUGHAN'S BRIDGE.

Incorporation of the proprietors of Portland bridge.

Ibid. February 25, 1794, § 1.

Ibid. March 4, 1800, § 2.

Name changed to Vaughan's bridge.

Organization.

Tolls, &c.

Draw.

Time allowed for building bridge.

Location.

2. By an act passed by the Massachusetts legislature, February 25, 1794, William Vaughan and others were constituted a corporation, under the name of the proprietors of Portland bridge, for the purpose of constructing a bridge from Portland to Cape Elizabeth. (A subsequent act, passed March 4, 1800, changed the name of the corporation to "the proprietors of Vaughan's bridge.") Provisions were made for organization, the rates of toll, (to be subject to the regulations of government after the term of thirty years,) and also, for the construction of a draw for the passage of vessels. It was further provided that the act should be void if the bridge should not be completed for the space of six years. The additional act passed March 4, 1800, extended the time for the completion of the same nine months. It was further enacted, that the bridge shall be built at a place called Bramhall's point in Portland, and land at or near Jacob Brown's farm in Cape Elizabeth, as may be determined by a majority of the proprietors.

Act authorizing the county commissioners to locate a free bridge over the lines of Vaughan's bridge. 1854, 363, § 1.

3. By an act approved April 17, 1854, the county commissioners of the county of Cumberland were authorized to lay out and locate a free bridge and public highway across Fore river, in said county, commencing at the easterly end of Vaughan's bridge, in Portland, and extending on the line of said bridge to the westerly termination

[2] For articles of agreement defining the bounds of Stroudwater bridge made by the city council, and selectmen of Westbrook, see city records, vol. 6, page 213.

[3] Town of Deering set off from Westbrook in 1871.

thereof, in Cape Elizabeth, if upon petition and hearing pursuant to the twenty-fifth chapter of the revised statutes, said commissioners shall judge said bridge and highway to be of common convenience and necessity.

Draw, construction and regulation of.
Ibid. § 2.

4. Said county commissioners shall cause to be constructed in such place in said bridge, as they may designate, a suitable and convenient draw, of not less than forty-two feet in width; and said draw shall be kept and maintained under such regulations as said commissioners may from time to time establish.

Expense of constructing bridge, how paid.
Ibid. § 3.

5. Three-fourths of the expense of constructing and maintaining said bridge, shall be paid by the city of Portland, and one-fourth by the town of Cape Elizabeth; and said commissioners shall have power to designate the sections of said bridge which shall be respectively built and maintained by said city of Portland, and said town of Cape Elizabeth, and to establish the lines of divisions between said sections, and if upon such division any part of said bridge required to be built and maintained by said city, shall extend within the present limits of said town of Cape Elizabeth, the territory covered by such part of said bridge shall be thereafter inclosed within the territorial limits of said city so long as said bridge shall be maintained; and said commissioners, in addition to the powers herein before granted, shall have powers in laying out and locating said highway and bridge conferred by the provisions of the twenty-fifth chapter of the revised statutes, relating to the location of highways, and the awarding of damages therefor.

Bridge territorial limits, regulation of.

Additional powers of county commissioners.

Proceedings of county commissioners in regard to laying out said bridge.
Rep. C. C., June term, 1854, S. J. C.

6. At a meeting of the board of county commissioners for the county of Cumberland, held May 29, 1854, a free bridge and public highway was laid out and located on the lines of Vaughan's bridge, in accordance with the provisions of the aforesaid act. It was determined that the bridge should be thirty-three feet in width, and twenty-five hundred and sixty-four feet in length, and that the section to be built and maintained by the city of Portland, should comprise fourteen hundred and eight feet; and that to be built and maintained by the town of Cape Elizabeth, eleven hundred and fifty-six feet. It was also determined

that the city of Portland should build and maintain within her section a suitable and convenient draw, of not less than forty-two feet in width, for the passage of vessels, boats, &c.

It was also further determined that the city of Portland and town of Cape Elizabeth should be allowed the term of one year from the sixth day of June, 1854, to build said bridge.[3]

DEERING'S BRIDGE.[4]

Deering's bridge laid out by town of Portland. Town Records, vol. 1, p. 400.

7. Deering's bridge, so called, was laid out by the town of Portland, as by the following extract from town records: "In town meeting, May 6, 1805:

"Voted to raise one thousand dollars to build a bridge from high-water mark, in Green street, to the line that separates this town from Falmouth towards Reed's point."

BACK COVE BRIDGE, NOW CALLED TUKEY'S BRIDGE.

Back Cove bridge. Incorporation of. Mass. special laws, Feb. 27, 1794, § 1.

8. By an act passed by the Massachusetts Legislature, February 27, 1794, Thomas Smith and others were made a corporation under the name of the "Proprietors of Back Cove bridge," for the purpose of building a bridge from Sandy point, in Portland, to Secomb's point, in Falmouth. Similar provisions for organization and rates of toll were enacted as in the incorporation of Vaughan's bridge; and it was also provided that the bridge should be so constructed as not to prevent the water flowing the flats westward of said bridge.

Location.

Restrictions.

Additional act. 1825, 363.

Draw and piers.

9. By an act of the legislature of Maine, passed February 26, 1825, it was provided that the proprietors should build and ever after keep in repair, a convenient and sufficient draw or passage way, and also build and keep in repair, a suitable pier upon each side of the bridge, and that vessels should pass and repass free from toll or ex-

[3] See county commissioners' records, vol. 10, pp. 235, 236.

[4] In 1864, Green street, including Deering Bridge, was widened on the westerly side line 2 feet and 3 inches, and in 1875 the easterly side line, between Kennebec street and Back Cove creek, was located 21.75 feet easterly of that line as formerly established and parallel therewith, making Green street four rods wide between the above named points.

See city records and City Engineer's plans.

Extension of time as toll bridge.

pense; and also extending the time for the taking of tolls for the benefit of the proprietors for an additional term of ten years.

Reduction of tolls. 1835, 583.

10. By an additional act, approved March 19, 1835, a reduction was made in the tolls; and the time for taking of tolls for benefit of proprietors, further extended for an additional term of two years.

Further extension of time as a toll bridge.

11. By an act entitled "An act to relieve the public from the burden of tolls at Back Cove bridge," approved February 16, 1837, it was provided:

City of Portland authorized to receive and maintain Back Cove bridge. 1837, 257, § 1.

That the city of Portland be authorized and empowered to receive the bridge leading from Westbrook to Portland, called Back Cove bridge, from the proprietors thereof, and to support and maintain the same forever hereafter, and to relieve said proprietors from all responsibility on account of the same; *Provided*, that said bridge shall be and remain free from tolls from and after the nineteenth day of March next.

To be maintained as a free bridge. Ibid. § 2.

12. Said city of Portland shall forever hereafter be bound to support and maintain said bridge as a free bridge, and shall have power and authority to do all things necessary and proper in maintaining the same.

City to have authority to construct said bridge for the purposes of a dam. Ibid. § 3.

13. For the purpose of remunerating said city for the expenses of supporting and maintaining said bridge, said city shall have power and authority so to construct said bridge as to answer the purposes of a dam and basin, and shall have power and authority to erect and maintain, or cause to be erected and maintained, such mills, factories, and machinery as shall be thought proper and expedient. And said city shall have a right to use and occupy so much land and flats as may be necessary for the above purposes, and if any person shall be injured thereby, he shall have the same remedy as is provided in the sixth section of the act to incorporate the city of Portland, passed February twenty-eighth, one thousand eight hundred and thirty-two.

May occupy flats.

Draw. Ibid. § 4.

14. Said city shall build and ever after keep in repair a convenient and sufficient draw or passage way over the channel of said river, for the passing and repassing of vessels through said bridge, and said draw shall be raised at all times without delay for vessels having occasion to pass or repass, free of expense.

Vessels to pass free of expense.

15. Said city hereby is authorized and empowered to assess and collect money from time to time for the purposes aforesaid, and to do all things necessary and proper respecting the same.

May assess a tax for support of bridge. Ibid. § 5.

PORTLAND BRIDGE.[5]

16. The proprietors of Portland bridge were incorporated February 10, 1823. The corporators were authorized and empowered to construct a bridge from the northerly point of the farm of Elias Thomas, Esq., in Cape Elizabeth, to the nearest convenient point southwesterly of Robinson's wharf in Portland, and to purchase and hold such real and personal estate as may be necessary to carry the aforesaid object into complete effect.

Incorporation of proprietors. Act 1823, 212, § 1. Location.

17. It was further enacted that said proprietors should build and keep a convenient and sufficient draw or passage way, at least thirty-two feet wide, at some place in said bridge, proper for the passing of vessels by day and by night through the same, and a suitable wharf or pier on each side of said bridge, and adjoining said draw, sufficient for vessels to lie at. And said draw shall be lifted for all vessels without toll or pay, except for boats or vessels passing for pleasure; and all vessels intended to pass through said draw shall be free of charge at said wharf or pier until a suitable time shall offer for passing the same.

Draw. Ibid. § 4. Piers. Vessels to pass free of expense.

18. In accordance with the provisions of an act, approved August 28, 1850, entitled "an act relating to the surrender of toll bridges and turnpikes to public uses," authorizing the county commissioners to accept the surrender of bridges from the owners thereof, the proprietors of Portland bridge surrendered the same to the county of Cumberland, and at a meeting of the county commissioners, held at Portland, June 14, 1851, the same was accepted and established as a free bridge from and after that date.[6]

Surrender of bridge to county of Cumberland by proprietors. Act 1850, 197. Acceptance and establishment as a free bridge.

19. By an act, approved March 19, 1853, entitled "an act giving to the county commissioners of Cumberland

[5] Extensive changes of detail and repair have been made in this bridge.
[6] See county commissioners' record, vol. 9, page 364.

Powers given to county commissioners to establish a side passage to Canal street.
Act 1853, 95, § 1.

county further powers in relation to Portland bridge," the county commissioners of Cumberland county were authorized, if they should adjudge the object contemplated by this act to be for the public convenience and interest to alter Portland bridge in said county, by locating and establishing in addition to the present bridge, a side passage or branch, suitable for a public highway, leading from the western side of said bridge, and above low water mark, to Canal street, in Portland, to be constructed and maintained as a part of Portland bridge, as the same is now held and maintained, and in the manner and under the limitations provided in an act passed August twenty-eighth, eighteen hundred and fifty, entitled "an act relating to the surrender of toll bridges and turnpikes to public uses."

Buildings.[1]

Statutes.

1. City may make by-laws respecting wooden buildings.
2. Livery stables, &c., when prohibited.
3. Penalties.
4. Malicious mischief to buildings.

Ordinances.

1. Builders must give notice.
2. Wooden buildings, when prohibited.
3. Same, when removable as nuisances.
4. Buildings may be numbered. Penalty.
5. Cellar doors, &c., to be kept in repair.
6. Same, when to be lighted.
7. Penalty for defacing buildings, &c.
8. Posters not to be placed on buildings. Penalty.

Statutes.

By-laws respecting erection of wooden buildings. R. S., 1871, c. 3, § 40.

1. Cities may make such by-laws or ordinances as they think proper, not inconsistent with the laws of the State, and enforce them by suitable penalties, respecting the erection of wooden buildings, or buildings the exterior of which shall be in part of wood therein, and defining their proportions and dimensions; and any building erected contrary to a by-law or ordinance adopted under this specification shall be deemed a nuisance and dealt with accordingly.

R. S., 1871, c. 26, § 16. Penalty for occupying tenements for sail maker, rigger or livery stable, except as municipal officers direct.

2. No person shall occupy any tenement in any maritime town for the business of a sail maker, rigger, or keeper of a livery stable, except where the municipal officers direct; and any person who offends against this section, shall forfeit ten dollars a month during the continuance of such occupancy, with costs.

[1] For care of Public Buildings, see charter § 7.
See also Title "Assemblies."
See "City Market Hall."
As to wood buildings see private laws 1863, c. 167, § § 3, 4 and 5.

Penalties. Ibid. § 28.

3. The said penalties[2] may be recovered by complaint, indictment, or action of debt, one-half to the use of the town where the offense is committed, and the other to the person prosecuting.

Willful injuries to buildings, fixtures, goods or valuable papers of another. R. S., 1871, c. 127, § 15.

4. Whoever[3] willfully and maliciously destroys, injures, or defaces any building or fixture attached thereto, without consent of the owner, shall be punished by imprisonment less than one year, or by fine not exceeding five hundred dollars, and also be liable to the party injured, in an action of trespass, for the amount of injury so done, and for a further sum not exceeding three times the amount, as the jury shall deem reasonable.

Ordinances.

Notice shall be given of intention to build, &c. Rev. Ord. 1868.

1. All persons intending to erect any building, or to make alterations in the external walls of any building, or buildings, of any description, any part of which is to be placed upon or within ten feet of any of the public streets, squares, alleys, or lanes of the city, shall, before they proceed to build or erect the same, or lay the foundation thereof, or to make the said alteration, give notice in writing of such their intention, to the city engineer, specifying the dimensions of the proposed structure, the materials to be used, the number of the street, or precise location, fifteen days at least before doing any act for carrying such intention into execution, in order that the encroachment, or any other injury or inconvenience to the said public streets, squares, lanes, or alleys, which might otherwise happen, may be thereby prevented; and that the proper grade and line of the street may be ascertained. And all persons intending to erect, or make any alterations in any buildings as aforesaid, shall not pay any fees of the city engineer, for giving the grade and line of the street, adjoining which the proposed building is to be placed.

[2] For further legislation to prevent fires in buildings, see R. S., 1871, c. 26, § § 17 and 18.

[3] State *v.* Whittier, 21 Maine, 341; Thayer *v.* Boyle, 30 Maine, 475; State *v.* Billington, 33 Maine, 146; State *v.* Pike, 33 Maine, 361.

Erection of wooden buildings forbidden. Ibid.

2. No building, or buildings, the exterior walls of which shall be in part or wholly of wood, exceeding ten feet in height, shall hereafter be erected in this city without permission in each case from the mayor and aldermen.

When nuisances. Ibid.

3. It shall be the duty of the city marshal to cause to be removed at once, as nuisances, all buildings erected in violation of this ordinance.

Numbers of buildings. Ibid.

4. The mayor and aldermen shall have power to cause numbers of regular series to be affixed to or inscribed on all dwelling houses and other buildings erected or fronting on any street, lane, alley, or public court within the city of Portland at their discretion; and shall also have power to determine the form, size and material of such numbers, and the mode, place, succession, and order of inscribing or affixing them on said respective houses or other buildings. And any owner or occupant of any building or part of a building who shall neglect or refuse to affix to the same the number designated by the mayor and aldermen, or by some person by them duly authorized, or who shall affix to the same, or retain thereon more than one day, any number contrary to the direction of the mayor and aldermen, or person so authorized, shall forfeit and pay a sum not less than one dollar, nor more than twenty dollars, and a like sum for every subsequent offense.

Penalty for numbering contrary to directions.

Cellar doors and platforms to be kept in good repair. Ibid.

5. Whenever any cellar door, or the platform thereof, shall project into any of the streets, lanes, alleys, public squares, or places, within the city, it shall be the duty of the owners and occupants of the buildings or estate to which the same belong, to keep the same in good repair, and if at any time the said cellar door or platforms are out of repair, so that in the opinion of the mayor and aldermen, the safety of the inhabitants is thereby endangered, the mayor and aldermen are hereby authorized to notify the said

owners and occupants of the fact; and if said owners or occupants neglect or refuse for the space of twenty-four hours to repair the same, the said mayor and aldermen shall forthwith cause the same to be repaired at the expense of said owners or occupants; and said owners or occupants shall, in case of such neglect or refusal as aforesaid, be further liable to a penalty of not less than one, nor more than twenty dollars, for each and every day that said cellar door, or the platform thereof, shall continue to be out of repair.

Cellar doors to be lighted when open at night. Ibid.

6. Whenever any of the cellar doors before mentioned are opened, or the platform thereof removed at any time during the night, it shall be the duty of the occupant of the cellar to which the same belongs, to cause a sufficient light to be so placed that the opening of the said door or removal of said platform, shall at all times during the night be distinctly visible. And any person offending against the provisions of this section, shall forfeit and pay a sum not less than one nor more than twenty dollars.

Defacing buildings, &c. Ibid.

7. Any person or persons who shall be guilty of defacing any building or buildings, fence, sign, or other property, in the city, by cutting, breaking, daubing with paint, or in any other way defacing or injuring the same, or who shall throw any stones, chips, or any other thing against any building or buildings, with intent to injure the same, or to annoy or disturb any person who may be therein, shall forfeit and pay a sum not less than five dollars nor more than twenty dollars.

Posters or other bills not to be placed on buildings. Ibid.

8. No person shall post or stick up any poster or other bill, or any advertisement or notice of any kind, on any public building, or any building or fence, without the consent of the owners or occupants thereof, under a penalty of not less than one nor more than ten dollars.

Carriages.

Statutes.

1. Teams, to turn to the right; unable to stop.
2. When stationary, or traveling slowly, allow others to pass.
3. Not to stand on way to obstruct it, nor be without a driver.
4. Bells on horses drawing runners.
5. Cities authorized to establish by-laws.

Ordinances.

1. Hackney carriage defined.
2. Licence required.
3. Same.
4. Mayor and aldermen may license and revoke.
5. Fee for license, city marshal to make quarterly report.
6. When licenses expire. Shall not be transferred without, &c.
7. Who shall be liable.
8. Neglect to take out license after it is granted.
9. Manner of marking and numbering.
10. No other number shall be used.
11. Shall not stand in any other place.
12. Shall not stand so as to obstruct.
13. Driver, &c., shall wear a badge.
14. Runners shall not be employed.
15. Mayor may give directions.
16. Rates of fare.
17. Shall be inspected by city marshal.
18. Carriage not to be driven by a minor, unless, &c.

OMNIBUSES.

19. Time for starting.
20. Stopping.
21. Shall not leave the route.

TRUCKS, WAGONS, &c.

22. License for trunks, wagons, &c.
23. Mayor and aldermen may license and revoke.
24. Fee for license. City Marshal to make quarterly report.
25. When licenses shall expire. Shall not be transferred without, &c.
26. Who shall be liable.
27. Using for unlawful purposes. Penalty.
28. Pace at which horses, &c., shall go.
29. To obey rules and regulations.

CARRIAGES IN GENERAL.

30. Bells required in certain cases.
31. Carriages shall not stop so as to obstruct foot passengers.
32. How trucks, &c., shall be placed. Loading and unloading.
33. Mayor and aldermen to appoint stands, &c.
34. Carts, &c., to be placed near the side-walk.
35. Horses, &c., not to be fed on side-walks.
36. Riding upon outside of carriages, &c., forbidden.
37. Transportation of dead bodies forbidden.

Statutes.

Teams about to meet, to turn to the right; when unable to stop. 25 Maine, 39. R. S., 1871, c. 19, § 2.

1. When persons traveling with a team[1] are approaching to meet on a way,[2] they are seasonably to turn to the right of the middle of the traveled part of it, so far that they can pass each other without interference. When it is not safe, or is difficult on account of weight of load to do so, a person about to be met or overtaken, if requested, is to stop a reasonable time, at a convenient place, to enable the other to pass.

When stationary or traveling slowly, to allow others to pass. Ibid. § 3.

2. When a person with a team is stationary, or traveling slowly on a way at a place unsafe or inconvenient for passing him with a team, he is, if requested, to drive to the right or left, or to stop a reasonable time at a convenient place, to allow the other to pass.

Teams not to stand on ways to obstruct passage, &c. Ibid. § 4.

3. No person is to leave his team stationary on a way so as to obstruct a free passage of other teams; or is to allow his team to be on a way without a driver.

Bells on horses drawing runners. Ibid. § 5.

4. Three or more bells are to be fastened to one of the foremost horses drawing teams on snow without wheels.

Cities authorized to establish ordinances for regulation of carriages. R. S., 1871, c. 3, § 40.

5. Towns, cities and village corporations may make such by-laws or ordinances as they think proper, not inconsistent with the laws of the State, and enforce them by suitable penalties, for the due regulation of omnibuses, stages, hackney coaches,[3] wagons, carts, drays, hand carts, and all other vehicles, used wholly or partly therein for business, pleasure, or the conveyance of passengers by

[1] The word "way" includes all kinds of public ways and the word "team" all kinds of conveyances on such ways for such persons or property. R. S., 1871, c. 19. § 1.

[2] Travelers under some circumstances, when they cannot pass, are required by law to stop a reasonable time at a convenient part of the road, even if not requested to do so. Kennard *v.* Barton, 25 Maine, 39.

See also 10 Cush. 495; 8 Met. 213; 11 Met. 403; 23 Pick. 201.

[3] For injury to baggage by hackmen, see R. S., 1871, c. 127, § 18.

horse power or otherwise, and by establishing the rates, of fare, their routes and places of standing, and in any other respects; but by-laws and ordinances for this purpose shall be published one week at least before they take effect, in some newspaper printed therein, and penalties for their breach shall not exceed twenty dollars for one offence, to be recovered by complaint to the use of such city, town or corporation.

Ordinances.

Hackney carriage defined. Rev. Ord. 1868.

1. Every hack, stage-coach, omnibus, chariot, coachee, barouche, landeau, or other vehicle, whether on wheels or runners, drawn by one or more horses, or other animal power, which shall be used in the city of Portland for the conveyance of persons for hire, from place to place within said city, shall be deemed a hackney-carriage within the meaning of this ordinance.

License required. Ibid.

2. No person shall set up, use, or drive, in the city of Portland, any hackney-carriage for the conveyance of persons from place to place within said city, without a license for such carriage from the mayor and aldermen, under a penalty of not less than five nor more than twenty dollars every time such carriage is used.

Same. Ibid.

3. No person shall be permitted to drive any hackney-carriage in the city of Portland, unless he shall have first procured a license therefor from the mayor and aldermen. But the mayor shall have power to grant temporary permits to persons to drive hackney-carriages; which permits shall be valid only for two days after the meeting of the board of mayor and aldermen, next after the date of said permit. And if any person shall drive any hackney-carriage without being licensed or permitted as aforesaid, he shall forfeit and pay not less than five nor more than twenty dollars for every such offense, and the owner of the carriage so driven shall forfeit and pay the same penalty.

Mayor and aldermen may license and revoke. Ibid.

4. The mayor and aldermen will, from time to time, grant licenses to such persons, described in sections two and three of this ordinance, and upon such terms as they may deem expedient, to set up, use, or drive hackney carriages, for the conveyance of persons for hire, from place to place within the city, and they may revoke such licenses at their discretion; and a record of all licenses so granted shall be kept by the city marshal.

Fee for license. City marshal to make quarterly report. Ibid.

5. For every license so granted, there shall be paid to the city marshal, the sum of one dollar, for the use of the aldermen of the city, and the city marshal shall make a quarterly report to the mayor and aldermen, of all sums so received, and shall pay over the same to the aldermen.

When licenses expire shall not be transferred without, &c. Ibid.

6. All licenses granted as aforesaid, shall expire on the first day of July next after the date thereof; and no license shall be sold, assigned or transferred, without the consent of the mayor and aldermen indorsed thereon by the city clerk.

Who shall be liable. Ibid.

7. The person in whose name the license for a hackney-carriage is taken out, as well as the owner, shall be liable for all forfeitures and penalties herein contained, unless upon the sale of said carriage, notice be given to the city marshal and the license delivered to him.

Neglect to take out license after it is granted. Ibid.

8. Any person who may be licensed as aforesaid, either as owner or driver of any hackney carriage, who shall continue to use any such carriage, and shall neglect or refuse to take out and pay for his license within ten days after the same has been granted, shall be liable to a fine of not less than one dollar, nor more than twenty dollars, for each and every day thereafter, that he or they shall refuse or neglect to take out such license.

9. Hackney carriages shall be marked and numbered in the manner following, viz: Every hack or

landeau licensed, shall be marked upon the outside and upon each side, on the sill or rockers, immediately below the doors, with the number of the license, with white, gilded or plated figures, in the Arabic character, of not less than one inch and a half in size on a dark ground, or with a dark figure of the same size on a light ground, and no other figure or device within four inches of the same. Stage coaches shall be numbered in like manner, on the top rail of the doors. Omnibuses shall be numbered in like manner, on the lower pannel of the door. The name of the owner, and the number of the license, together with the date of inspection and rates of fare shall be printed on a card of suitable size, and placed in all the hackney carriages by the city marshal at the time of inspection in the most conspicuous place for the information of passengers. And if any owner or driver of any hackney carriage shall use or drive any such carriage, or permit the same to be used and driven, without complying with the foregoing requisitions, said owner and driver shall each be liable to a fine of not less than two nor more than twenty dollars for each offence.

Manner of marking and numbering. Ibid.

10. No owner or driver of any hackney carriage shall use, or suffer such carriage to be used, with any other number upon the same than that assigned by the mayor and aldermen, nor place the number on any other part of such carriage than that designated in the preceding section, under a penalty of not less than five nor more than twenty dollars, every time such carriage is used.

No other number shall be used. Ibid.

11. No owner, driver, or other person having charge of any hackney carriage, shall stand with such carriage in any place within the city, to be employed, other than the stand assigned to such carriage by the mayor and aldermen, under a penalty of not less than two nor more than twenty dollars for each offense.

Shall not stand in any other place. Ibid.

Shall not stand so as to obstruct. Ibid.

12. No owner, driver, or other person having charge of any hackney carriage, shall stop his carriage abreast of any other carriage in any street, square, lane, alley, or public place, so as to obstruct the same, or the sidewalk, flag stone, or crossing thereof, under a penalty of not less than two nor more than twenty dollars for each offense.

Driver, &c., shall wear a badge. Ibid.

13. Every owner, driver, or other person having charge of any hackney carriage which has a stand in any square or street, at any railroad station, steamboat landing, theater, museum, or other place of public entertainment, shall at all times when driving or waiting for employment, wear a badge on his hat or cap, with the number of his carriage thereon, in brass or plated figures of not less than one and a half inches in size, and so placed that the same may be distinctly seen and read; and he shall not wear upon his hat or carriage, the name of any public hotel, without permission of the proprietor of said hotel. Every person offending against the provisions of this section, shall pay a penalty of not less than two nor more than twenty dollars for each offense.

Runners shall not be employed. Ibid.

14. No person except the owners or drivers of hackney carriages, shall solicit or request, nor shall the owners or drivers of any hackney carriage, hire, employ, or permit any person to solicit or request any person or persons in the public streets, at places of public amusement, at railroad stations, steamboat landings, or any other public place in the city, to hire, engage or employ any hackney carriage, under a penalty of ten dollars, to be recovered from such person, owner, or driver, any or either of them severally and respectively.

Mayor may give directions. Ibid.

15. In any street or square, or at any theater, museum, or other place of public amusement, where hackney carriages attend for passengers, the mayor, or any person or persons by him authorized, may give

directions respecting the standing of such carriages, while waiting for their passengers, and the route they shall go when going to, or leaving any such place of entertainment; and if any owner, driver, or other person having charge of any such carriage, shall refuse to obey such order or directions of the mayor, or other person or persons by him authorized, he or they shall be liable to a fine of not less than five nor more than twenty dollars for each offense.

Rates of fare, Ibid. from Ord., May 22, 1867.

16. The prices or rates of fare to be taken by, or paid to the owner, driver, or other person having charge of any hackney carriages, except omnibuses, shall be as follows: that is to say, for carrying a passenger from one place to another within the city, not exceeding fifty cents at any hour of the day or night; for children between the ages of four and twelve years, if more than one, or if accompanied by an adult, half price only is to be charged for each child; and for children under four years of age, when accompanied by their parents or an adult, no charge is to be made. Every owner, driver, or other person having charge of any hackney carriage, shall carry in addition to one trunk, two articles, such as a valise, saddle-bag, carpet bag, portmanteau, box, bundle, or other similar articles used in traveling, if he be requested so to do, without charge or compensation therefor; but for every additional trunk, or similar article he may carry, he shall be entitled to demand and receive not exceeding twenty-five cents. If any driver or other person shall demand or receive any greater sum for his services as specified in this section, or shall willfully refuse to answer the demand of any person or persons for conveyance from one place to another within the city, he shall forfeit and pay for so doing a penalty not exceeding twenty dollars for each offense.

Inspected by city marshal. Ibid.

17. The city marshal shall inspect all hackney-carriages before a license is granted for use of the same, and also upon the first Monday in July and January of each year. And the owners of licensed hackney-carriages shall cause them to be presented to the city marshal for inspection upon the days above mentioned, at such hour and place as the city marshal may appoint, and the city marshal shall cause public notice to be given of the hour and place at which he will inspect such carriages, at least one week prior to the first Monday in July and January of each year. And if any owner of any licensed hackney-carriage shall neglect to present the same for inspection as above provided for, his license for the use of such carriage shall be suspended until such inspection is made. If upon such inspection any carriage is found in an unsuitable condition, either as regards strength, general good order, or cleanliness in any of its appointments for the safe and comfortable conveyance of passengers, the city marshal shall notify the owner thereof to place such carriage in proper repair, and the license of such carriage shall be suspended until the required repairs shall have been made to the satisfaction of the city marshal.

Carriage not to be driven by a minor unless, &c. Rev. Ord. 1868.

18. No hackney carriage used for the conveyance of passengers, shall be driven by a minor, unless he be specially licensed by the mayor and aldermen, under a penalty of not less than two nor more than twenty dollars for each offense.

OMNIBUSES.

Time for starting. Ibid.

19. Each license of any omnibus belonging to any line may specify the time that said omnibus shall leave the stand, and no omnibus shall leave the stand designated for it, until five minutes shall have elapsed after the departure of the one immediately preceding, under a penalty of not less than two nor more than twenty dollars for each offense.

Stopping Ibid.

20. No owner or driver of any omnibus belonging to any line, shall stop his omnibus on any part of the route assigned thereto, unless called by or to leave a passenger, and then for no longer time than may be sufficient for such passenger to take his or her seat, or leave such carriage, under a penalty of not less than two nor more than twenty dollars for each offence.

Shall not leave the route. Ibid.

21. No owner or driver of any omnibus shall drive his omnibus, or permit the same to be driven, on any other route or street than that designated and established by the mayor and aldermen, under a penalty of not less than ten nor more than twenty dollars for each offence.

TRUCKS, WAGONS, &c.

License for trucks, wagons, &c. Ibid.

22. Every truck, wagon, dray, cart, sleigh, hand-cart, hand-sled, or other vehicle, which shall be used in this city for the conveyance from place to place within the city, of wood, coal, lumber, stones, brick, sand, clay, gravel, dirt, rubbish, goods, wares, furniture, merchandise, building materials, or any other article or thing whatsoever, shall be licensed as hereinafter provided, and shall have the number of the license placed on the outside of the same, in plain, legible figures of not less than one and a half inches in size, so that the same may be distinctly seen. And if the owner of any such vehicle shall use or suffer the same to be used, or if any other person shall use any such vehicle, without being licensed as hereinafter provided, or without having the number placed thereon, as aforesaid, he or either of them shall be liable to a fine of not less than three dollars nor more than twenty dollars for each offence.

23. The mayor and aldermen will, from time to time, grant licenses to such persons as they may deem

Mayor and aldermen may license and revoke. Ibid.

suitable, and upon such terms as they may deem expedient, to use and to drive any such vehicle as aforesaid, within the city of Portland, and they may revoke such licenses at their discretion; and a record of all licenses so granted shall be kept by the city marshal.

Fees for license. City marshal to make quarterly report. Ibid.

24. For every license so granted there shall be paid to the city marshal the sum of twenty-five cents, for the use of the aldermen of the city; and the city marshal shall make a quarterly report to the mayor and aldermen of all sums so received, and shall pay over the same to the aldermen.

When licenses shall expire. Shall not be transferred without, &c. Ibid.

25. All licenses granted as aforesaid shall expire on the first day of July next after the date thereof, and no license of any vehicle shall be sold, assigned, or transferred without the consent of the mayor and aldermen, indorsed thereon by the city clerk.

Who shall be liable. Ibid.

26. The person in whose name a license is taken out for any such vehicle shall, for all the purposes of this ordinance, be considered as the owner of the same, and be liable to the penalties herein contained, unless upon sale of any such vehicle notice thereof be given to the city marshal, and the license be delivered up to him.

Using for unlawful purposes. Ibid.

27. Any person licensed as aforesaid, either as owner or driver of any of the before mentioned vehicles, who shall use or suffer to be used any such vehicle or vehicles for any unlawful purpose, shall pay a penalty of not less than ten nor more than twenty dollars, and his license shall be revoked by the mayor and aldermen.

Pace at which horses, &c., shall go. Ibid.

28. All drivers or other persons having the care and ordering of any truck, cart, wagon, sled, or dray, passing in or through the streets, squares, or lanes of the city, shall drive their horses or beasts at a moderate foot pace, and shall not suffer or permit them to go into a gallop or trot; and such drivers or other

persons shall hold the reins in their hands to guide or restrain such horses or beasts, or they shall walk by the head of the shaft, or wheel horse, either holding or keeping within reach of the bridle or halter of said horse or other beast, and any person violating either of the provisions of this section shall be liable to a fine of not less than five nor more than twenty dollars for each offence.

To obey rules and regulations. Ibid. Penalty.

29. Every person licensed by virtue of the preceding sections shall be bound to obey and comply with all rules and regulations and ordinances that are or may be from time to time prescribed by the city council, or mayor and aldermen. One-half of any penalty that may be recovered by virtue of the provisions of the preceding sections, shall accrue to the complainant, and he shall be entitled to receive the same from the city treasury when collected.

CARRIAGES IN GENERAL.

Bells required in certain cases. Ibid.

30. No carriage or vehicle of any description, whether of burden or pleasure, shall be driven through any part of the city of Portland, during any time that the snow or ice shall be upon, or cover the streets, squares, lanes, or alleys of the said city, unless there shall be three or more bells attached to the horse or horses, or some part of the harness or shaft thereof, under a penalty of not less than three nor more than twenty dollars for each offence.

Carriages shall not stop so as to obstruct foot passengers. Ibid.

31. No owner, driver, or other person having the care of any carriage, truck, cart, wagon, sleigh, sled, or other vehicle, whether used for burden or pleasure, shall stop or place such vehicle at or near the intersection of any street, lane, or alley, in such manner as to cross the footing or flag stones, or prevent foot passengers from passing the street, lane, or alley in the direction or line of the foot way or flag stone, on the side of such street, lane or alley, under a penalty

of not less than three nor more than twenty dollars; and any person who shall have so placed any such vehicle as aforesaid, and shall not immediately, on the request of any foot passenger, cause the same to be removed, or who shall absent himself so that such request cannot be immediately made and complied with, shall be liable to an additional penalty of not less than two nor more than ten dollars.

How trucks, &c., shall be placed.

32. No truck, cart, or other vehicle shall be so placed in any street within the city by the owner, driver, or other person having the care or ordering thereof, as to prevent the passing of any other truck, cart, or carriage of any description; and no such vehicle shall be wholly or in part backed or placed across any street, square, lane, or alley, or upon any sidewalk or foot way of the same, unless it be for a reasonable time, not exceeding ten minutes, for the loading or unloading of heavy articles. Any owner, driver, or other person having the care of any such vehicle, violating either of the provisions of this section, shall be liable to a penalty of not less than five dollars nor more than twenty dollars for each offence.

Ibid.
Loading and unloading.
Ibid.

Mayor and aldermen to appoint stands, &c.
Ibid.

33. The mayor and aldermen are authorized and empowered to appoint from time to time, as occasion may require, such and so many stands for trucks, carts, wagons, sleds, sleighs, hackney-coaches, and other vehicles, as may appear to them to be requisite; and no owner or driver of any such vehicle shall suffer the same to stand in any other place than has been or shall be designated, under a penalty of not less than three nor more than ten dollars.

Carts, &c., to be placed near sidewalks.
Ibid.

34. Every owner, driver, or other person having the care or ordering of any cart, truck, wagon, sled, or other vehicle, shall place his horse and cart, truck, wagon, sled, or other vehicle, as near as possible to the post or abutting stone of the foot or sidewalk of

the street in which he shall stand, and no more than one range of carts, trucks, or other vehicles shall stand in the street, nor shall any such vehicle so stand as to prevent the free passage of any other vehicle in the streets, squares, lanes, or other public places; and any person who shall violate the provisions of this section shall be liable to a fine of not less than three nor more than ten dollars.

Horses, &c., not to be fed on sidewalks. Ibid.

35. No owner or driver of any hackney-carriage, truck, wagon, dray, cart, sleigh, sled, or any other vehicle whatsoever, with horse or any other beast harnessed thereto, shall bait or feed any such beast on any sidewalk of the city under a penalty of not less than two nor more than ten dollars for each offence.

Riding upon outside of carriages, &c., forbidden. Ibid.

36. No person shall ride upon or take hold of any part of any chaise, coach, omnibus, or other carriage used for the purpose of transporting persons, while the same is passing, without the permission of the driver or person having the charge thereof, under a penalty of not less than one nor more than ten dollars.

Driver's forbidden to transport dead bodies. Ord. Jan. 4, 1876.

37. No driver of any hack, job wagon, or express wagon, or any other vehicle, except a duly appointed and licensed undertaker, shall transport through this city, or from one place to another in this city, any dead body which is to be buried in any cemetery belonging to the city, without permission of the superintendent of burials, under a penalty of twenty dollars for each offence, to be recovered for the use of the city by complaint before the judge of the municipal court of Portland.

Cemeteries.[1]

Statutes.

1. Injury to monuments and burial places.
2. Municipal officers may enlarge cemeteries.
3. "Medical act." Disposition of dead bodies.
4. Person requesting to have his body dissected.
5. When excess of bodies in medical schools.
6. Notifying municipal officers.
7. Portland may pass ordinances for "Evergreen Cemetery."

Ordinances.

1. Evergreen Cemetery—lands.
2. Trustees.
3. Superintendent.
4. Occupancy of lots.
5. Evergreen fund.
6. Cemetery account.
7. Burials upon lots.
8. Lots: General directions.
9. Undertakers.
10. Perpetual care of lots.
11. Forest City Cemetery, lands appropriated.
12. city treasurer to execute deed.
13. city treasurer to keep record.
14. superintendent of.
15. committee may exchange lots.
16. sale of lots.
17. Committee on cemeteries, &c.
18. their duty.
19. Removing gravel from cemetery, or public ground, penalty.

Statutes.

Injury to monuments and places of burial.
R. S., 1871, c. 124 § 27.

1. Whoever wilfully destroys or injures any tomb, gravestone, monument, or other thing placed or designed as a memorial of the dead, or any fence, railing or other thing placed about or inclosing the burial place of the dead; or wilfully injures, removes, or destroys any tree, shrub, or plant, within such inclosure, shall be punished

[1] See title "Health."

by imprisonment less than one year, or by fine not exceeding five hundred dollars.

Municipal officers authorized to enlarge cemeteries on certain conditions. 1879, c. 141.

2. The municipal officers of any town[2] are hereby authorized to enlarge any public[3] cemetery or burying yard within their town, on petition of ten voters, by taking land of adjacent owners, to be paid for by the town, when in their judgment public necessity requires it, providing, that the limits thereof shall not be extended nearer any dwelling house than twenty-five rods therefrom, against the written protest of the owner, made to the municipal officers of the town at the time of hearing on said petition.

Medical act. Penalty for having dead body wrongfully in possession. 1881, c. 93.

3. Whoever[4] wilfully and knowingly shall have in his possession, for anatomical purposes, the body or any part thereof, of any person dying within this state, unless the same shall be obtained in the manner provided by section two of chapter thirteen of the revised statutes, or in the manner provided by this act, shall be punished by imprisonment of not more than five years, or by fine not exceeding three thousand dollars.

Person requesting that his body be delivered to surgeon, &c. Ibid.

4. If any person, a resident of this State, requests or consents during his life that his body may be delivered to a regular physician or surgeon, for the advancement of anatomical science, after his death, it may be used for that purpose, unless some kindred or family connection makes objection.

Excess in schools. Ibid.

5. The body of any person dying in this State, which shall not be claimed, reasonable notice being given for burial by the family or next of kin of such person, shall be subject to the use of the medical school of Maine, for anatomical purposes, as hereinafter provided, and if, at any time said school shall receive a greater number of bodies than it needs for the instruction of its students, it shall be authorized to deliver the excess to any regular physician or surgeon, for the same purpose, in this State.

6. Persons having the care of such bodies shall forthwith notify the municipal officers of the town in which

[2] Act 1874, c. 241, § 8 revised. Act 1877, c. 195 repealed. See "City Clerk," § 23.

[3] Public cemeteries are exempted from taxation and attachment. R. S., 1871, c. 55, § 11. See Woodlawn Cemetery *v.* Everett, 118 Mass. 354.

The method of making a public cemetery from private cemetery, is provided by act 1881, c. 3.

[4] R. S., 1871, c. 13, § 2. Person convicted of crime making the above request.

Persons having care of bodies to notify municipal officers. Ibid.

such bodies are, and upon the reception of such notice, the municipal officers of such town shall immediately notify, by mail or otherwise, the officers of the medical school of Maine, and such notice shall state the age and sex of the deceased, and the cause of death, if known, and, on request of the officers of said school, if made within two days after receiving such notice, said municipal officers shall deliver such bodies to such officers, or to any regular physician or surgeon by them designated to receive the same; but before receiving any such body, said medical school, physician or surgeon, shall give bond to the treasurer of such town, as provided in section two of chapter thirteen of the revised statutes.[5] Any person who shall knowingly violate the provisions of this section, shall forfeit the sum of thirty dollars, to be recovered by an action of debt, one-half to the use of the prosecutor, and one-half to the use of said medical school of Maine.[6]

City authorized to pass by-laws, for government of Evergreen Cemetery. 1881, Jan. 31.

7. The city of Portland may ordain reasonable by-laws and regulations for the government of Evergreen Cemetery, and shall have full power and authority to impose and enforce penalties for the breach thereof, and for the punishment of offences committed in said cemetery. All by-laws and regulations heretofore ordained by said city of Portland for the government of Evergreen Cemetery are, and shall be valid and in force; and all penalties imposed under the same, and for the breach of the same, and for punishment of offences committed in said cemetery, shall be enforced.[7]

Ordinances.

Ordinance, Jan. 3, 1881. Land appropriated.

1. The tracts of land situated in the town of Deering, purchased by the city of Portland of Oliver Buckley, and Wm. Stevens by their several deeds dated February 28, 1852, containing about fifty-five acres, were set apart and appropriated under the

[5] Bond that body shall be used for anatomical purposes, and shall be buried.

[6] Duty of Medical school to have body embalmed, and kept thirty days, &c. Penalty, $1000. 1881, c. 94.

[7] See city charter.

revised ordinances of 1855, for the burial of the dead of the city of Portland, to be known as "Evergreen Cemetery," and the several tracts of land since purchased by the city in said town of Deering, adjacent to and adjoining said cemetery or which may hereafter be purchased to extend its limits, shall be included in and subject to all the ordinances or regulations herein or hereafter made for the government and control of said Evergreen Cemetery.

TRUSTEES.[8]

EVERGREEN CEMETERY.

Trustees.

2. The board of trustees shall consist of three members.

The mayor shall, in the month of April, annually, appoint, subject to the approval of the board of aldermen, a suitable person as trustee of Evergreen Cemetery, to hold such office for a term of three years, (unless sooner removed), and until his successor is appointed and confirmed, and each annual appointment so made, shall be to fill the vacancy occasioned by reason of the expiration of a trustee's term of office.

The mayor may, two-thirds of the board of aldermen consenting, remove for sufficient cause any member of the board of trustees after a full and fair investigation in which the said trustee shall have the right to be heard in defence, and any vacancy in the board of trustees whether by removal, resignation or otherwise, shall be filled by the mayor and aldermen by appointment and confirmation as aforesaid; the trustee so appointed to hold such office for the residue of the term of the trustee whose place he fills.

The board of trustees shall, in the month of April or May, annually, organize by the choice of a chair-

[8] For rules of trustees see book prepared by them, entitled, "Regulations of the Board of Trustees."

man, and also a secretary and treasurer, who shall be one of their own number. The chairman (when present) shall preside at all meetings of the board.

The secretary and treasurer, acting as secretary, shall keep a record of the doings of the board of trustees, and attend to all correspondence.

He shall annually make out and submit to the city council a statement of the general condition and affairs of the cemetery, which statement shall be submitted to the city council in connection with the detailed statements of Evergreen Fund and the Cemetery Account by the city treasurer at the close of each financial year.

The secretary and treasurer, acting as treasurer of the trustees, shall receive all money not paid directly into the city treasury.

All bills against the cemetery, shall be submitted to him for examination, and he shall then submit the same to the board of trustees for approval.

He shall keep a detailed account of all money received by him from any source in connection with and belonging to the cemetery, and of any and all expenditures made through him.

He shall at least once in three months, make out a detailed statement of all receipts and expenditures, and turn the same over to the city treasurer together with all funds in his possession, as shown by such statement.

He shall carefully examine and make up from the Superintendent's time book, the pay roll of all the employees of the cemetery, and pay out the same to such employees.

He shall give bond in the sum of one thousand dollars, to be approved by the board of mayor and aldermen, for the faithful performance of his duties.

He shall perform such other duties, as are imposed upon him by these ordinances.

SUPERINTENDENT.

3. The board of trustees, shall at their organization or as soon thereafter as may be, appoint some suitable person as superintendent of the cemetery, who shall act under their direction and control in the care of the cemetery, and the trustees may confer upon him such authority as they deem advisable, subject to these ordinances in the general control and management of the cemetery. Superintendent

It shall be his duty at all times in connection with the trustees to see that these ordinances are rigidly and impartially enforced.

He shall be liable to removal at any time by the trustees for incompetency, dishonesty, or for any cause which they may deem sufficient.

He shall be *ex-officio* an undertaker, and shall have all the powers of the same.

4. The trustees are authorized to determine and regulate such price for the occupancy of lots in the cemetery as in their judgment, the location, surroundings and condition of the same would seem to warrant, and the city treasurer upon receipt of a certificate from the trustees setting forth the name of the person or persons, together with the section, number and price of such lot or lots shall, upon the payment of the price specified in said certificate, made out and deliver to such person or persons a certificate in the following form: Occupancy of lots.

CITY OF PORTLAND.

"Know all men by these presents, that the city of Portland, in consideration of ——— dollars paid by ——— ———, hereby give and grant to the said ——, his heirs and assigns forever, the right to occupy for the purpose of burial, lot No. — of section — in Evergreen Cemetery, belonging to the city, situated in Deering, being the lot described by that number on a plan of the cemetery on file in the office of the city treasurer.

This right is granted, and is to be held and enjoyed subject to all such general regulations as have been or may be adopted by the city council or under their authority, for the management

and care of the cemetery, and the due observance of order therein, and the same shall not be assigned or transfered without the consent of the trustees and city treasurer endorsed thereon.

In witness whereof this instrument is subscribed by —— ——, in behalf of the city, this —— day of ——, A. D. 18—.

——, City Treasurer.

The trustees are prohibited from issuing certificates of sale of lots except as follows, viz:

To citizens of Portland.

To non-resident tax payers or any non-resident representing a Portland family, deceased, and buried in any cemetery belonging to the city.

To residents of the town of Deering at an advance of fifteen per cent. upon the price charged to citizens of Portland.

No person shall hereafter purchase and transfer to any citizen of Deering, or other non-resident, any lot in Evergreen Cemetery. Any such transfer shall be void; and the person making such transfer shall be liable to a fine of not less than fifty nor more than one hundred dollars for each offence. But any person holding a certificate of occupancy of any lot or lots purchased prior to the adoption of these ordinances, may transfer to any non-resident such right of occupancy in any lot or lots so held by written consent of the trustees and city treasurer endorsed upon such transfer, provided the person making such transfer shall pay into the city treasury a sum equivalent to fifteen per cent. of the original cost of such lot or lots so transferred.

5. One-fourth part of the amount received from the sale of lots in Evergreen Cemetery, and all sums received from transfer of lots, together with all donations made by the holders of lots, or other persons, shall constitute a fund to be called "Evergreen Fund," the interest of which shall be appropriated to improving and ornamenting the grounds

Evergreen Fund.

and lots in said cemetery and keeping the same in good order under the direction of the trustees.

The city treasurer shall have the care and custody of said fund, and such portion of the same as may not be wanted for immediate use in accordance with the provisions of this ordinance, may be loaned to the city on interest, or securely invested under the direction of said trustees, and all interest received, during each year, above the expenditures made, shall be added to the principal of the fund, and he shall, at the close of each financial year, report to the city council the condition of the fund.

6. The city treasurer shall keep a record in which shall be entered all lots, agreeable to the plan of said cemetery, with their number and section, and with columns ruled for the names of the purchasers of each lot, the price, and date of sale. He shall, also, open a cemetery account, in a book kept for that purpose, in which shall be entered all moneys received on account of said cemetery; and all moneys so received shall be and hereby are constituted a fund to be appropriated exclusively for the purpose of improving and ornamenting said cemetery. Cemetery account.

The city treasurer shall, at the close of each financial year, report to the city council a detailed statement of all receipts and expenditures for the past year, as shown by such cemetery account.

For the general improvement and care of the cemetery, the trustees are authorized to employ from time to time such number of men as, in their judgment, the interests of the cemetery require, and the pay roll (of such employees) so made and maintained, together with all expense incurred by such improvement and care, shall be taken from such cemetery account.

7. Burials are prohibited upon any lot the right of occupancy of which is in the city of Portland. Burial upon lots.

Provided, *however*, that the trustees may by written consent allow such burials to be made for a limited period where the person or persons interested, shall contract for the purchase of such right of occupancy in the lot or lots so buried upon, and if such person or persons shall fail to fulfil such contract of purchase within the time specified in said written consent, the trustees may, after thirty days from the date of a notice to that effect to such party or parties interested, cause such body or bodies to be removed to Forest City Cemetery, in Cape Elizabeth, at the expense of the party or parties for which such burial was made.

Provided, *further*, that the trustees may and they are hereby authorized to set apart a plat of land in the cemetery, to be kept in good condition for the sale of graves to parties unable to purchase lots, and the trustees are authorized to adopt and regulate such price for the same as in their judgment is just and proper, and if any person purchasing a grave shall thereafter purchase the right of occupancy in any lot in the cemetery, and remove such body, such person shall be allowed in such purchase, the cost of said grave exclusive of opening and filling the same, and in case of such removal the space so vacated, and the right to occupy the same, shall revert to the city.

No interment shall be made upon any lot for hire, nor without the permission of the recorded holder of the lot or his legal representative.

Lots; general directions.

8. A space of not less than three feet in width shall be reserved for ornamental purposes on the front of all lots facing avenues, and of two feet in width on lots fronting paths, and no interment shall be made therein.

Lots for tombs may be sold in places approved by the trustees, but no tomb shall be erected wholly, or in part, above ground without permission of the trustees, and all such must be furnished with shelves

having divisions allowing interments to be separately made and perfectly sealed, so as to prevent the escape of unpleasant effluvia. Such portions as are above ground must be faced with granite or marble.

The holder of each lot shall have the right to erect any proper stones, monuments, or sepulchral structures thereon, and also to cultivate trees, shrubs and plants on the same, subject to the ordinances and regulations of the cemetery, but no tree growing upon any lot or border, or within any walk or avenue, shall be cut down or destroyed by any person without the consent of the trustees in writing. Any person violating this ordinance shall be subject to a fine of not less than ten nor more than fifty dollars for each offence. Stones and monuments.

If any trees or shrubs, situated in any lot, shall, by means of their roots, branches or otherwise, become detrimental to the adjacent lots, avenues or paths, or unsightly or inconvenient to passengers, it shall be the duty of the trustees, and they shall have the right to enter the said lot and remove, or cause to be removed, the said trees or shrubs, or such parts thereof as are detrimental, unsightly or inconvenient. Trees.

All lots hereafter sold shall be graded under the direction of the trustees at such price as may be determined upon by them, and any profit arising from such grading shall go into the cemetery account provided in sec. 6, and no person shall be employed to grade lots except by consent and under direction of the trustees, and no deed shall hereafter be issued by the city treasurer to any party until the price of the lot and grading shall have been paid. Grades.

The grades of all lots will be determined by the trustees, and all workmen employed in the construction of vaults, enclosing of lots, erection of monuments, etc., must be subject to the control and direction of the superintendent acting under the Ibid.

direction of the trustees, in all matters appertaining to the general regulations of the cemetery.

This ordinance shall not only apply to employees of the cemetery, but to any and all parties who shall enter the cemetery for such purposes, and any party who shall refuse to comply with this ordinance and the regulations of the cemetery, may be prohibited from performing further work in the cemetery.

The grading of any lot in the cemetery, or the change of the grade of any lot once established by the city, except by an employee of the cemetery acting under direction of the superintendent or trustees, is prohibited, and any lot holder or his representative who shall cause this ordinance to be violated by reason of procuring any person for such purpose (except as above), shall be liable to a fine of not less than twenty-five nor more than one hundred dollars for each offence.

Care of lots.

No person except an employee of the cemetery acting under direction of the superintendent or trustees, shall hereafter enter Evergreen Cemetery for the purpose of caring for lots for hire; and no trustee, superintendent or employee of the cemetery shall be allowed to be personally interested in, or receive compensation for any such care of lots, but any and all receipts from such care shall go into the cemetery account provided in sec. 6, and any person violating this ordinance shall be liable to a fine of not less than ten nor more than fifty dollars for each offence.

Water.

The regulations governing the use of water taken from the pipes in the cemetery, either by hose or otherwise, shall be under the control and direction of the trustees.

No foundation for any stone, tablet, monument or ornament, which foundation shall be wholly or in part of stone or brick, shall be laid in the cemetery except by the city of Portland. *Provided, however*, that

the trustees may, if deemed advisable, authorize under their direction and supervision the construction of such foundations by parties other than the city.

No person shall hereafter attach any chain, wire, rope or other article used as a guy to any tree in the cemetery without the consent of the superintendent or trustees in writing, and any person violating this ordinance shall be liable to a fine of not less than fifty nor more than one hundred dollars for each offence, and the superintendent or trustees may remove any guy so attached and the party or parties attaching the same in violation of this ordinance shall be liable for any and all damage caused by such removal.

Loaded teams prohibited.

The transportation of loaded teams containing stone, granite, marble or other heavy substance through the front main entrance, may be prohibited by the trustees when in their judgment the same would be detrimental or injurious to said entrance, and any person or persons who shall continue such transportation when so prohibited shall be liable to a fine of not less than fifty dollars for each offence, and the trustees are further authorized to prohibit such transportation under the same penalty, through such avenues as they may from time to time designate.

The erection of wooden fences or head-boards of wood or slate is prohibited.

Horses.

Horses must not be left unfastened or fastened except at posts provided for such purpose, and any party violating this ordinance shall be liable for any damage which may occur by reason of the same.

Noises prohibited.

All persons who shall be found within the limits of the cemetery making unseemly noises, discharging firearms, driving at a rapid rate through the avenues, throwing stones or other missiles or otherwise conducting himself in a manner unsuitable to the purposes

to which the grounds are devoted, or in violation of any ordinance or regulation of the cemetery shall be liable to arrest and imprisonment or fine.

Personal interest of officer.

No trustee or superintendent shall be personally interested in any contract for labor or materials used in the cemetery, and the violation of this ordinance shall be sufficient cause for such trustee's or superintendent's removal from office, and any trustee or superintendent who shall receive and retain or appropriate to his own use any funds of the cemetery of any description shall be subject to immediate removal from office.

Expense of trustees, transportation.

Each trustee shall be entitled to draw from the cemetery account the sum of one hundred dollars per annum, which sum shall be in full for all expense of transportation to and from the cemetery.

The trustees shall have power to adopt and enforce such regulations for the government and control of the cemetery as are not inconsistent with these ordinances.

Undertakers.

9. No person except a licensed undertaker of the city of Portland, or the superintendent acting as such, shall remove to or deposit for burial in Evergreen Cemetery any body of a deceased person, and any person violating this ordinance shall be liable to a fine of not less than fifty nor more than one hundred dollars for each offence.

It shall be the duty of every undertaker who shall hereafter remove to Evergreen Cemetery any body of a deceased person for burial or for deposit in the receiving tomb, to at once notify the superintendent of burials and also the secretary and treasurer of the trustees, upon a blank for such purpose, to be procured by such undertaker (of said secretary and treasurer) of the name, age, residence and nature of the disease of which such person died, and if buried, of the section, number and name of the lot holder

upon whose lot such burial was made, or if a body is placed in the receiving tomb, awaiting burial, it shall be so stated upon such return, and in addition to the name, age, residence and disease, the date of such deposit and when such body shall be removed for burial, the further statement of the section, number and lot holder's name shall be added to such return, by such undertaker, and the secretary and treasurer shall cause a record of every return so made to be kept for the use and information of the cemetery, and the license of any undertaker who shall wilfully violate this ordinance, shall, upon complaint of the trustees, be at once revoked by the mayor and aldermen.

No person or persons shall hereafter open any grave either for the burial or removal of a body in the cemetery, except by and under the direction of the superintendent or trustees, and for any grave so made or opened, the trustees may collect a sum not exceeding two dollars for a person over five years, and one dollar and fifty cents for a person under five years of age, at any season of the year when the ground is free from frost and snow, otherwise an addition of one dollar for each grave may be added, and any undertaker for whom such grave shall be so made or opened, either for deposit or removal of a body, shall be liable to the city for such expense, together with any additional expense incurred at the request of such undertaker, and he shall at least once in three months pay to the treasurer of the trustees the amount of all expense so incurred for graves or otherwise.

No body of any deceased person shall be deposited in the receiving tomb, except that of a lot holder in the cemetery or a person entitled by reason of the wish or consent of a lot holder to be buried upon such lot holder's lot, or of a person, the grave of which shall have been purchased as contemplated in section

7, or of a person for whom the price of a lot in the cemetery shall have been deposited with the city treasurer.

No body of any deceased person shall hereafter be removed to Evergreen Cemetery, either for burial or deposit in the receiving tomb, except between the hours of seven o'clock, A. M. and seven o'clock, P. M., nor shall any body be removed, in or from said cemetery except between the hours above stated, and any undertaker or other person violating this ordinance, shall be liable to a fine of not less than fifty nor more than one hundred dollars for each offence.

Perpetual care of lots.

10. There shall be three classes or conditions for perpetual care of lots, viz:

First. The care of grass only, which is designed to cover the keeping of the grass in good condition, and properly cut.

Second. The care of grass as contemplated in the first class, and also the care of such trees, plants, shrubs, myrtle or hedge, as may be placed upon the lot for which care is granted, which is designed to cover the general care of such trees, plants, &c., but not the furnishing or replacing of either.

Third. The care contemplated in the first and second class, and also of all granite, stone, marble or other work appearing upon such lot at the time of granting the care, and such additional granite, stone, marble or other work thereafter placed upon such lot, as the trustees may by written indorsement upon the bond of care, consent to include in the same.

The trustees are authorized to fix upon any lot or lots, such price for perpetual care as in their judgment would be just and proper, as between the city and the applicants for same, and they may refuse to grant perpetual care upon any lot, the condition of which is detrimental or unsatisfactory to them.

Upon the receipt of a certificate from the trustees setting forth the section, number, and lot holder's name and residence, together with the class of care, and price of same, the city treasurer shall issue to the party or parties therein named, a bond for perpetual care, upon the payment of the price agreed upon in such certificate.

The trustees or superintendent may contract with lot holders, or their representatives for the care of lots by the season, at such price as may be agreed upon.

All ordinances on Evergreen Cemetery heretofore adopted, are hereby repealed.

FOREST CITY CEMETERY.

Land appropriated for "Forest City Cemetery." Ord. Dec. 17, 1858, § 1, and Rev. Ord. 1868.

11. So much of the tract of land[9] lying north-west of the fence of the Kennebec and Portland railroad, in the town of Cape Elizabeth, purchased by the city of Samuel Haskell, as per his deed, dated August 12, 1858, is hereby set apart and appropriated for the burial of the dead, and the same shall be called and known by the name of the "Forest City Cemetery," according to the plan thereof made by Charles H. Howe, city engineer, and adopted and established by the city council on the seventeenth day of September, A. D. 1858.

City treasurer to execute deed. Ibid.

12. The city treasurer, on the payment of the sum fixed upon said lots, in the schedule of the same, on the aforesaid plan of Charles H. Howe, by any person, shall be, and hereby is required to execute and deliver to said person, his heirs and assigns forever, a certificate of said lot, signed by him, similar

City treasurer to keep record, &c. Ibid.

[9] Sixteen and seventy-one one-hundredths acres of this cemetery were sold to D. W. Clark & Co. by order March 7, 1879, and eleven and six-tenths acres to same parties, by order June 10, 1879. City Records, vol 19, p. 457 and vol. 20, p. 37. For full description of lots sold and of the present boundary of cemetery see plans in city engineer's office. This cemetery was originally purchased of Samuel C. Haskell, Aug. 12, 1858.

in form and upon the same terms as the certificate now given for lots in Evergreen cemetery.

13. The city treasurer shall keep a record of all the lots sold in said cemetery, and an account of all the moneys received for the same, and shall annually report to the city council a statement of all lots sold, and assigned by him, with the names of the purchasers, and amount received by him therefor. And all moneys so received shall be, and hereby are constituted a fund, to be appropriated exclusively for the purpose of improving and ornamenting said cemetery.

Superintendent. Ibid. City charter.

14. There shall be appointed by the mayor with the advice and consent of the aldermen, annually, a superintendent of Forest City cemetery, who shall be *ex officio* an undertaker, and who shall hold his office for one year, or until a successor is appointed and qualified, and his duties shall be the same in reference to the Forest City Cemetery as those of the superintendent of burials, in reference to cemeteries within the city.

Committee authorized to exchange lots, &c. Ibid.

15. The committee on "Cemeteries and public grounds" are hereby authorized, at any time, to exchange, free of cost, any lot in Forest City Cemetery for a lot in the Eastern or Western cemeteries in this city, and the treasurer, upon the written request of said committee, shall make, execute and deliver, a certificate of such lot, free of charge, if so requested by said committee.

Sale of lots. Ord. July 8, 1879.

16. No sale or exchange of lots or of places for interment in Forest City Cemetery shall be made hereafter except under the supervision and direction of the committee on cemeteries and public grounds.

Committee on cemeteries to be appointed Rev. Ord. 1868. City charter.

17. There shall be appointed annually, a joint committee of the city council, to be called the committee on cemeteries and public grounds, to consist

of one member of the board of mayor and aldermen, and three members of the common council.

To have care and custody of cemeteries, promenades, &c. Ibid.

18. The said committee shall have the care and supervision of the cemeteries of the city;[10] of Evergreen Cemetery, belonging to the city, in the town of Deering; of the promenades, and all other public grounds of the city, subject to such rules, orders and regulations as the city council may from time to time adopt.[11]

Penalty for removing gravel, &c. from cemeteries or public ground. Ord. 1869, August 30.

19. No person shall remove any gravel, soil or material from any portion of the western promenade, the cemeteries, or any other public grounds within the city, without the consent of the mayor expressly given therefor. Any person violating this ordiance, shall be subject to a penalty of fifty dollars.

[10] Subject to above ordinance of 1881, regulating affairs of Evergreen Cemetery.

[11] The first cemetery of the city was the "Eastern," which has been used as a burial place since the earliest records of the town. It contains five and a quarter acres. The "Western Cemetery" was purchased Dec. 8, 1829, and is still used as a burial place by some of its lot owners.

Children Abused and Neglected.

Statutes.

1. Municipal officers to give notice of hearing on cases.
2. Municipal officers may make complaint to court.
3. Magistrate may place child in control of private person.
4. Municipal officers to take custody in certain cases.
5. Parents may apply to have custody restored.
6. Expense of support.
7. Towns may provide for support.

An act to provide for care of abused and neglected children.

Municipal officers may give notice of hearings on cases of abused children.

Act 1881, c. 72, approved March 15. 1881, and taking effect same day.

1. When complaint in writing, signed by two or more citizens of any town or city alleging that any child within such town or city, is willfully neglected or cruelly treated by its parents, or by the willful fault of such parents is not provided with suitable food, clothing or privileges of education, or is kept at any house of ill-fame, or that such child is an orphan without means of support or kindred of sufficient ability, who will furnish such support, shall be made to the municipal officers of such town or city, such municipal officers shall give notice of a time and place of hearing upon such petition, by serving such notice, with a copy of such petition upon such parents at least two days before such hearing, or by publishing a copy of such petition and notice of hearing in some newspaper in the county where such child resides, at least seven days before such hearing. Said municipal officers shall at the time and place mentioned in said notice, give a hearing to the parties and their witnesses, and if they find that the allegations in the petition are true, and that it is just and expedient to make further provision for the care, education and support of such child, they shall make a record thereof, signed by them or a majority of them, which shall be recorded by the clerk of said city or town in a book kept for that purpose.

2. Upon the making of such record it shall be the duty of such municipal officers or of some person appointed by them for that purpose, to make a complaint under oath to any judge of any court or any trial justice, which shall contain in substance, the allegations set forth in said petition, and praying that such provision may be made for the care, custody, support and education of the child named in said complaint as justice shall require, and thereupon the magistrate, before whom such complaint is made, shall issue his warrant and shall cause such child to be brought before him, and if upon notice and hearing, it shall appear that the allegations of the complaint are true, and that justice requires that such child shall be supported and educated away from its parents, he shall order such child to such place or institution as shall be provided therefor by such town or city, or to such charitable institution or private person, as he shall deem suitable for the purpose, provided such institution or person shall consent to receive, support and educate such child; but such order shall not extend beyond the time when such child shall arrive at the age of twenty-one years, if a male, or at the age of eighteen years, if a female.

Municipal officers to make complaint to court. Ibid. § 2.

3. Whenever the magistrate shall deem it suitable and conducive to the public welfare, that such child shall be placed under the control of any private person, he shall first take a bond from such person, running to such town or city where the child resides, in such sum and with such sureties as he shall approve, conditioned that such person will humanely treat and properly support, clothe and educate the child, and in case of the non-performance of said bond, a suit may be commenced thereon, and the sum recovered upon such bond shall be paid into the treasury of the town or city to which the bond is given. Upon application to any magistrate, he shall examine into the condition and welfare of the children who have been provided for under this act, and may at any time make such further order in relation to their care, custody, support and education as justice shall demand.

Magistrate may place child under control of private person. Ibid. § 3.

4. Whenever the municipal officers of any town or city have reason to believe that any child will be removed

Municipal officers to take custody in certain cases. Ibid. § 4.

beyond the limits of the State before a hearing can be had, provided in this act at any time after the filing of the petition, they shall have the power to take the child into their custody and keep the same until the hearing before the magistrate, as provided by this act.

Parents may apply to have custody of child restored. Ibid. § 5.

5. Whenever any child is in the custody of any public or charitable institution, the parents or either of them may make application in writing to any judge of the Supreme Judicial Court to have the custody of such child restored to them. Such notice of the application and the time and place of the hearing thereon as the court shall order, shall be given to such institution and the municipal officers of the town or city where the proceedings provided for in this act commenced, and if it shall appear upon such hearing, that the applicant is of sufficient ability and inclination to suitably provide for the support and education of such child, and justice, requires that the custody of such child shall be restored to such applicant, the judge shall so order and the custody and control of said child shall thereupon be given such applicant until the further order of the court.

Expense of support. Ibid. § 6.

6. Any town or city incurring expenses under this act, by reason of the fault of parents who are of sufficient ability to properly support and educate their children, but who wrongfully neglect and refuse to do so, may recover of such parents in an action of debt, the amount so expended for the support of said children.

Towns may provide for support. Ibid. § 7.

7. Any town or city may make proper provisions for the support of children mentioned in this act, and such support shall not make such children or their parents, paupers.[1]

[1] See titles, "Schools," "Industrial School," "Paupers."

City Auditor.[1]

Ordinances.

1. The city auditor elected annually.
2. To give bond.
3. Successor to be appointed in case of death, &c.
4. Expenditures to be vouched and drawn for.
5. Payments in advance, how made.
6. Committee on accounts to direct auditor, and examine bills.
7. Auditor to keep books.
8. Auditor to examine bills against city, &c.
9. Auditor to make annual estimates and statement of expenditure.
10. Auditor to open an account with treasurer.

City auditor to be elected annually. Ord. Aprill, 1859, § 1, City charter. Rev. Ord. 1868.

1. There shall be elected annually, or at the time that may hereafter be fixed for the election of other subordinate officers, one person, possessing a practical knowledge of book-keeping, to be styled the city auditor of acounts, who shall continue in office during the year ensuing his election, and until another person has been elected and qualified in his place.

To give bond. Ibid. § 2.

2. Said auditor of accounts shall be sworn to the faithful performance of the duties of his office, and give bond, with surety or sureties, to be approved by the mayor and aldermen, in the penal sum of three thousand dollars, for the faithful performance of said duties, the true accounting for and payment over of all city moneys which shall come into his hands, and the delivery over to his successor, or to the city clerk, of all the books, accounts, papers, and other documents and property which shall belong to said office.

[1] For statute provisions relating to election of auditor, see act 1874, c. 188.

A successor to be appointed in case of death, &c. Ibid. § 2.

3. In case said office shall become vacant by death, resignation or otherwise, a successor shall forthwith, and in like manner, be appointed, who shall continue in office until the appointment and qualification of a successor.

Expenditures to be vouched and drawn for. Ibid. § 3.

4. No money shall be paid out of the city treasury unless the expenditures or the terms of the contract shall be vouched by the[2] chairman of the committee of the board, under whose authority it has been authorized and made; nor unless the same shall be examined by the auditor, approved by the committee of accounts, and drawn for by the mayor.

Payments in advance, how made. Ibid. § 3.

5. In all cases where it is necessary for money to be paid in advance, for contracts made or for works begun, but not completed, the mayor may, upon being satisfied of such necessity, draw upon the city treasurer for the amount thus necessary to be advanced, which draft shall be paid by the city treasurer, provided the same be countersigned by the auditor; and it shall be the duty of the auditor to countersign all such drafts, not exceeding five hundred dollars, and to charge the same to the proper person and account; but the said auditor shall not countersign any such draft for any sum exceeding five hundred dollars, without the direction of the committee on accounts.

Committee on accounts to direct auditor, and examine bills. Ibid. § 4.

6. It shall be the duty of the committee of accounts to direct the auditor as to the manner in which the books, records and papers belonging to the department shall be kept, and the mode in which all bills and accounts against the city shall be certified or vouched, and as often as once in every month to examine, and if they see fit, to pass all bills and accounts against the city, which shall be certified by the auditor.

[2] By order of city council, majority of the committee.

Auditor to keep books. Ibid. § 5.

7. It shall be the duty of the auditor to keep, in a neat, methodical style and manner, a complete set of books, under the direction of the committee of accounts, wherein shall be stated, among other things, the appropriation for each distinct object of expenditure, to the end that whenever the appropriations for the specific objects shall have been expended, he shall immediately communicate the same to the city council, that they may be apprised of the fact, and either make a farther appropriation or withhold, as they may deem expedient.

Auditor to examine all bills against the city, &c. Ibid. § 5.

8. The auditor shall receive all bills and accounts from persons having demands against the city, examine them in detail, cast up the same, and have them filed and entered in books, in such manner and form as the committee of accounts shall order and direct. When the auditor shall have any doubt concerning the correctness of any such bill or account presented against the city, he shall not enter the same in a book until he shall have exhibited the same, with his objections, to the committee of accounts, at their next meeting, for their consideration and final decision. And it shall also be the duty of the auditor to render any other services, from time to time, as the city council or the committee of accounts shall direct.

Auditor to make annual estimates and statement of expenditure. Ibid. § 6.

9. It shall be the duty of the auditor of accounts to lay before the city council annually, at such time as the council may direct, an estimate of the amount of money necessary to be raised for the ensuing year, under the respective heads of appropriation; and shall also annually, at such times as the council may direct, make and lay before said council a statement of all the receipts and expenditures of the past financial year, giving in detail the amount of appropriation and expenditure for each specific object, the receipt from each source of income, the whole to be arranged as far as practicable to conform to the accounts of the city treasurer; and said statement shall be

accompanied by a schedule of all the property belonging to the city, and an exhibit of the debts due from the city.

Auditor to open an account with treasurer. Ibid. § 6.

10. The auditor shall open an account with the treasurer of the city, charging said treasurer with the whole amount of taxes placed in his hands for collection, also the whole amount in detail of all bonds, notes, mortgages, leases, rents, interest and other sums receivable, in order that the value and description of all personal property belonging to the city may be at any time known at the office of the auditor.

City Clerk.

Statutes.

1. Notice of intention of marriage, how recorded.
2. Clerk to give certificate.
3. Proceedings when marriage is forbidden.
4. Return to the clerk by person solemnizing marriage.
5. Penalty for false certificate of intention.
6. Clerk to make annual return to clerk of courts.
7. Clerk to record marriages, births, deaths. Fees.
8. Assessors to return births and deaths to clerk.
9. Penalties.
10. Mortgages of personal property.
11. Clerk to record same. Fees.
12. How mortgage redeemed.
13. Notice of foreclosure, how given and served.
14. Sworn copy of notice to be recorded.
15. "Holmes note" to be recorded.
16. Attachment of property which cannot be moved.
17. Lien on building, and lot to be recorded.
18. Lien on vessel in stocks. Record.
19. Record Book for articles sold.
20. Proprietors' records.
21. Licensing board.
22. Indentures of apprentices.
23. Record of small cemetery lot.
24. Deeds of pews may be recorded.
25. Preparing list of jurors.
26. Check list. Return of votes, &c.
27. List of persons chosen to office. Oath.
28. May record his own election.
29. Certified copy of city officers elected.
30. Deputy clerk.
31. Treasurer of city or town to be given to State treasurer.

Ordinances.

1. Duties of clerk.
2. Clerk to purchase stationary and blank books.

Statutes.

Notice of intention of marriage, how to be recorded. R. S., 1871, c. 59, § 4, as amended by Act 1875, c. 40.

1. All residents of this State intending to be joined in[1] marriage, shall cause notice of their intentions to be recorded in the office of the clerk of the town in which each resides, at least five days before a certificate of such intentions shall be granted; and if one only of the parties intending to be joined in marriage resides in this State, they shall cause notice of their intentions to be recorded in the office of the clerk of the town in which such party resides, at least five days before a certificate of such intention is granted; and the book in which said record is made shall be labelled on the outside of the cover thereof, with the words, "Record of intentions of marriage," and be kept open to public inspection in the office of the clerk, and if there be no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

Book of record to be labeled and kept open for inspection.

Clerk to give certificate. R. S., 1871, c. 59, § 5.

Certificate not to be issued to minors without consent of parents or guardians.

Or to paupers.

2. The clerk shall deliver to the parties, a certificate, specifying the time such intentions were entered with him; and it shall be delivered to the minister or magistrate before he begins to solemnize the marriage;[2] but no such certificate shall be issued to a male under twenty-one, or a female under eighteen years of age, without the written consent of their parents or guardians first presented, if they have any living in this State; nor to a town pauper when the overseers of a town deposit a list of their paupers with the clerk; and for any intentional violation of the foregoing prohibitions; or for falsely stating the residence of either party named in such certificate, such clerk shall be fined twenty dollars.

Penalty. Ibid. § 5.

Proceedings where marriage is forbidden. Ibid. § 8.

3. Any person believing that parties are about to contract matrimony, when either of them cannot lawfully do so, may file a caution and the reasons therefore, in the office of the clerk where notice of their intention should

[1] When marriage is proved to have been solemnized by a settled ordained minister of the gospel, the legal presumption is that it was done in accordance with law. Pratt *v.* Pierce, 36 Maine, 448; see also, Bowdoinham *v.* Phippsburg, 63 Maine, 497.

[2] Marriage is a social relation. It is a civil contract, in one point of view, and only those who can legally enter into a civil contract, can legally marry. Adams *v.* Palmer, 51 Maine, 480. The law on this subject is regulated by the statutes of the place where the parties had their domicile.

be filed. Then if either party applies to the clerk to enter such notice, he shall withhold the certificate, and notify the person filing the caution, who shall, within seven days thereafter, unless the justices certify that a longer time is necessary, procure the decision of two justices of the peace, after notice to both parties, upon the sufficiency of such reasons, which shall be duly certified to said clerk, and he shall deliver or withhold the certificate accordingly. If the decision is against the sufficiency, the justices shall enter judgment against the applicant for costs, and issue execution therefor.

Return of marriages to be made to town clerk. 1876, c. 110.

4. Every person, commissioned to solemnize marriages, shall keep a record of all marriages solemnized by him, and, by the fifteenth day of each month, make return thereof for the preceding month, to the clerk of the town where the marriage is solemnized, certifying the names of the parties, the places of their residences, and the date of their marriage; and for any neglect to do so, he shall forfeit the sum of fifty dollars, one-half to the use of the county, and the other to the use of the person suing therefor.

Penalty for false certificate of intention. R. S., 1871, c. 59, § 18.

5. If any town clerk makes out and delivers to any person, a false certificate of the entry of the intention of matrimony, knowing it to be false in any particular, he shall be fined one hundred dollars, or six months in the county jail.

Town clerk to make annual return of marriages to clerk of courts. Ibid. § 19.

6. The clerk of every town shall return to the clerk of the judicial courts for his county, a transcript of all the records of marriages made upon his books during the year for which he was a clerk; and said clerk of courts shall record the same in a book to be kept for that purpose; and be allowed therefor by the county treasury at the rate of twelve cents a page.

Town clerk to record marriages births and deaths, and make annual return to secretary of state, to be filed by him. Ibid. § 20.

7. The clerk of every town shall record in a book kept for that purpose, the marriages, births, and deaths occurring therein; and by the second Monday of May annually, shall make certified returns thereof to the secretary of state, for the year ending the last day of March; and the latter shall receive and file them in his office.

Fees.
R. S., 1871, c. 116, § 19.

Town clerks[3] shall receive for entering and recording intentions of marriage, giving certificate of same, and recording marriage on receiving the minister's or justice's certificate thereof, fifty cents, to be paid on issuing the certificate of intention of marriage. For recording births and deaths, eight cents each. For a certificate of a birth or death, ten cents.

Assessors to ascertain births and deaths, and return to clerk.
Duty of parents.
R. S., 1871, c. 59, § 21.

8. The assessors, while taking the inventory of the polls and estates annually, shall ascertain by inquiry, the births and deaths during the year ending the last day of March, and make returns thereof to the town clerk by the last day of April; and parents, householders, masters of workhouses, almshouses, prisons and vessels, shall give notice to the clerk of their town, of the births and deaths which take place in their families, houses or vessels; and the elder person next of kin, shall give notice of the death of his kindred.

Penalty.
Ibid. § 22.

9. Whoever neglects to perform the duties required of him in the three preceding sections, forfeits not exceeding ten dollars for each offence, to be recovered by complaint, half to the town and half to the prosecutor.

Mortgages of personal property not valid except between parties, unless recorded or possession taken.
Where recorded.
R. S., c, 91, § 1. as amended by act 1880, c. 193.

10. No mortgage of personal property shall be valid against any other person than the parties thereto,[4] unless possession of such property is delivered to, and retained by the mortgagee, or the mortgage is recorded by the clerk of the town, or plantation, organized for any purpose in which the mortgager resides. When all the mortgagers reside without the state, the mortgage shall be recorded in said town or plantation where the property is when the mortgage is made; but if a part of the mortgagers reside in the state, then in the towns or plantations in which such mortgagers reside. A mortgage made by a corporation, shall be recorded in the town where it has its established place of business. If any mortgager resides

[3] Lake *v.* Ellsworth, 40 Maine, 343.

[4] If not recorded, not good against *bona fide* holder. Shaw *v.* Wilshire, 65 Maine, 485. How far notice to creditors will take the place of record, see Sawyer *v.* Pennell, 19 Maine, 167; Rich *v.* Roberts, 48 Maine, 548. Where *two* mortgagers in two towns, record must be in both towns. Rich *v.* Roberts, *supra;* Morrill *v.* Sanford, 49 Maine, 566. Certificate of town clerk on back, is legal evidence of when it was received for record. Stevens *v.* Whittier, 43 Maine, 376.

in an unorganized place, the mortgage shall be recorded in the oldest adjoining town or plantation, organized, as aforesaid, in the county.

Clerk shall record on payment of fees.

11. The clerk, on payment of twenty-five cents, shall record all such mortgages delivered to him, in a book kept for that purpose, noting therein, and on the mortgage, the time when it was received; and it shall be considered as recorded when received. Such clerk may appoint a citizen of said town his deputy, who may, in the clerk's absence from his office, record mortgages with the same effect as if done by the clerk; the appointment may be made in writing as follows:

May appoint deputy. Ibid.

I hereby appoint —— —— to perform the duties of town clerk, as set forth in section two, of chapter ninety-one, of the revised statutes, in the town of —— ——, during my absence from the clerk's office.

—— —— Clerk of the town of —— ——.

Said deputy shall be sworn to faithfully perform the duties of his office before he enters thereon.

How mortgage may be redeemed after breach of condition. R. S., 1871, c. 91, § 3. 1876, c. 63.

12. When the condition[5] of a mortgage of personal property is broken, the mortgager, or any person lawfully claiming under him, may redeem it at any time before it is sold, by virtue of a contract between the parties, or on execution against the mortgager, or before the right of redemption is foreclosed, as hereinafter provided, by paying or tendering to the mortgagee, or the person holding the mortgage by assignment thereof, recorded where the mortgage is recorded, the sum due thereon, or by performing or offering to perform the conditions thereof when not for the payment of money, with all reasonable charges incurred, and the property, if not immediately restored, may be replevied, or damages for withholding it recovered in an action of the case.

Notice of foreclosure, how given and served. R. S., 1871, c. 91, § 4.

13. The mortgagee or his assignee, after condition broken, may give to the mortgager, or his assignee, when his assignment is recorded where the mortgage is recorded, written notice of his intention to foreclose the same, by leaving a copy thereof with the mortgager or such assignee, or if the mortgager is out of the state, though resident therein, by leaving such copy at his last

[5] Winchester *v.* Ball, 54 Maine, 558; Trask *v.* Pennell, 59 Maine, 419.

and usual place of abode, or by publishing it once a week, for three successive weeks in one of the principal newspapers published in the town in which the mortgage is recorded. When the mortgager or his assignee of record is not a resident of the state, and there is no newspaper published in such town, such notice may be published in any newspaper printed in the county where the mortgage is recorded.

Sworn copy of notice to be recorded. Evidence of the facts. Mortgager out of the state to appoint agent and record appointment. Ibid. § 5.

14. The notice with an affidavit of service or a copy of the publication, with the name and date of the paper on which it was last published, shall be recorded where the mortgage is recorded, and the copy of such record shall be evidence that the notice has been given. If the mortgagee or his assignee is not a resident of the state, he shall at the time of recording such notice, record therewith his appointment of an agent resident in the same town, to receive satisfaction of the mortgage; and payment or tender thereof may be made to him. If he does not appoint such agent, the right to redeem shall not be forfeited.

"Holmes note." R. S., 1871. c. 111, § 5. 1874, c. 181.

Agreement that personal property delivered when a note is given, shall remain as property of payee till note is paid not valid unless made part of note and recorded.

15. No agreement that personal property bargained and delivered to another, for which a note is given, shall remain the property of the payee till the note is paid, is valid unless it is made and signed as a part of the note, nor when it is so made and signed in a note for more than thirty dollars, except as between the original parties to said agreement, unless it is recorded like mortgages of personal property, and on receipt of twenty-five cents, each town clerk shall record such notes in a book kept for that purpose.[6]

Attachment how preserved when property cannot be removed, &c. R. S., 1871, c. 81, § 24.

16. When any personal property is attached, which by reason of its bulk or other special cause cannot be immediately removed, the officer may, within five days thereafter, file in the office of the clerk of the town, in which the attachment is made, an attested copy of so much of his return on the writ, as relates to the attachment, with

[6] Wetherell *v.* Hughes, 45 Maine, 61; Bicknell *v.* Trickey, 34 Maine, 273. In computing, the day of the date is to be excluded. Bemis *v.* Leonard, 118 Mass. 502.

Sufficient if property cannot be moved without great damage. Cheshire Bank *v.* Jewett, 114 Mass. 241.

the value of the defendant's property which he is thereby commanded to attach, the names of the parties, the date of the writ, and the court to which it is returnable; and such attachment shall be as effectual and valid, as if the property had remained in his possession and custody. The clerk shall receive the copy, and note thereon the time of his receiving it, and enter it in a book kept for that purpose, and keep it on file for the inspection of those interested therein, for which he shall be entitled to ten cents.

R. S., 1871, c. 91, § 29.

17. The lien on buildings and lots, in favor of a person who furnishes labor and materials for constructing or repairing, by virtue of a contract with some other person than the owner of the property, shall be dissolved unless the claimant, within thirty days after he ceases to labor or furnish materials as aforesaid, files in the office of the clerk of the town in which such building is situated, a true statement of the amount due him, with all just credits given, together with a description of the property intended to be covered by the lien, sufficiently accurate to identify it, and the names of the owners, if known, which shall be subscribed and sworn to by the person claiming the lien, or by some one in his behalf, and recorded in a book kept for that purpose, by said clerk, who is entitled to the same fees therefor, as for recording mortgages.

Lien on building and lot must be recorded in clerk's office within thirty days.

See also, R. S., 1871, c. 91, § § 27, 28.
1876, c. 140.
1879, c. 136.

18. When a vessel on the stocks is attached, the attachment shall be made by filing in the office of the clerk of the town in which such vessel is, within forty-eight hours thereafter, a copy of so much of his return on the writ, as relates to the attachment, with the name of the plaintiff, the name of the person liable for the debt, the description of the vessel as given in the writ, the date of the writ, the amount claimed, and the court to which it is returnable, and by leaving a copy of such certificate with one of the owners of the vessel, if known to him and residing within his precinct, or with the master workman thereon.

Vessel on stocks, attachment how made.

Record in clerk's office.
R. S., 1871, c. 91, § 10.

For full particulars for enforcing such lien, see remainder of § 10, also § § 7, 8, 9, and 1875, c. 1.
1879, c. 103.
1880, c. 243.

19. The clerk[7] is to keep a book for the purpose of record of sales of articles sold to enforce liens on personal property. And all sales under laws of 1876, c. 99, are to be recorded. The articles shall be correctly de-

Record of sales of personal property sold to enforce a lien.

[7] Allen *v.* Ham, 63 Maine, 532.

1876, c. 99. See also, R. S. 1871, c. 91. § 38 1872, c. 27. 1873, c. 125.

scribed, and the expenses of advertising and selling, and the prices at which they are sold, and such book, shall be open to inspection of all.[8]

Proprietor's records, how preserved. R. S., 1871, c. 56, § 12.

20. After a final division of lands,[9] wharves, and other real estate held in common, the proprietors shall cause their records to be deposited in the office of the clerk of the town in which some part of such lands lie; and he may record votes, and certify copies of such records, as the proprietor's clerk might have done; and the last clerk chosen, shall continue in office, till the records are so deposited.

Licensing Board. See chapter on Innholders; also R. S., 1871, c. 27. R. S., 1871, c. 62, § 4.

21. The city clerk and municipal officers constitute a licensing board of towns, and licenses are to be recorded in clerk's office.

22. Indentures of apprenticeship are to be recorded in clerk's office.

Description of cemeteries to be recorded. R. S., 1871, c. 15, § 6. R. S., 1871, c. 15. 1874, c. 241.

23. Cemetery lot[10] of not more than half an acre, shall be exempt from attachment and execution, and unalienable and indivisable by the owners without consent of all. A written description of it, attested by two witnesses, is to be recorded in registry of deeds, or by the clerk of the town where it is situated.

Pews deemed real estate. Deeds and levies thereon may be recorded in clerk's office. R. S., 1871. c. 73, § 29.

24. Pews and rights in houses of public worship, are deemed to be real estate. Deeds of them, and levies by execution upon them, may be recorded by the town clerk of the town where the houses are situated, with the same effect as if recorded in the registry of deeds.

Board for preparing list of jurors. R. S., 1871, c. 106, § 1.

25. The municipal officers,[11] clerk and treasurer of each town, constitute a board for preparing lists of jurors, to be laid before the town for their approval. Town may strike out names, but cannot insert. Such board, at least once in three years, shall prepare a list of such persons,[12] under seventy years of age, qualified to serve as jurors, as are of good moral character, of approved integrity, of

[8] Persons using marks or devices for sale of mineral waters, &c., are to record in clerk's office. Act 1874, c. 219.

[9] Fogler *v.* Mitchell, 3 Pickering, 396.

[10] Woodlawn cemetery *v.* Everett, 118 Mass. 354.

[11] For penalty for neglect or fraud in observing these provisions, see § 16 and 20. See chapter on jurors.

[12] Fact that a man might have been excused from serving as juror will not affect a verdict. Munroe *v.* Brigham, 19 Pick. 368.

sound judgment and well informed, and qualified as the constitution directs, to vote for representatives in such towns. After the list of jurors is approved by the town, the board shall write their names upon tickets, and place them in the jury box, to be kept by the town clerk; and the persons whose names are in the box, shall be liable to be drawn and to serve on any jury, at any court for which they are drawn, once in three years and not oftener, except as by law provided.

What men shall be selected for jurors.
Ibid. § 2. 1878, c. 4.
Clerk to keep jury box.
Tickets in box liable to be drawn once in three years.
Ibid. § 4.

26. The clerk shall have list of voters, provided by law, at every election of town officers which shall be used as check list.

Check list.
R. S., c. 4, § 13.

The penalty for neglect or refusal under this section is not less than fifty nor more than one hundred dollars.

Penalty.
Ibid. § 14.
Ibid. § § 26, 51.

The clerk shall preserve the check lists used at the September election for one year thereafter for the purpose of furnishing certified copies.

Check list to be preserved.
Certified copies.
R. S., 1871, c. 4, § 33.

The clerk shall transmit returns of votes, to secretary of State within thirty days after election.

Whole subject in full, chapter on elections.

27. The clerk shall make a list of all persons chosen to office, and deliver to a constable, and he shall within three days summon them to appear before the clerk and take the oath of office.

Clerk to cause officers to be summoned before him to take oath.
R. S., 1871, c. 3. § 15.

28. Any town officer may be sworn by the clerk. The clerk may record his own election, the fact that he was sworn, when and by whom.

Clerk may record his own election.
Ibid. § 17.
See R. S., c. 3.

29. A certified copy of the election of city officers, on first Monday of March, is to be entered by city clerk on city records.

Election of officers recorded.
City charter, Dec. 13.

The clerk shall be elected on second Monday of March or as soon thereafter as may be.

City charter, Dec. 6.

30. The clerk of any city, town or plantation in this State, may appoint a citizen of said city, town or plantation, his deputy, who may in the clerk's absence perform the duties of said office, with the same effect as if done by the clerk. The appointment may be made as follows:

Appointment of deputy clerk, to do *all* duties.
1872, c. 17.

I hereby appoint —— —— to perform the duties of town clerk during my absence from the clerk's office.

—— —— Clerk of the town of ——

Said deputy shall be sworn to faithfully perform the duties of his office before he enters thereon.

Clerk to communicate name of treasurer to treasurer of State. 1879, c. 148.

31. No city, town or plantation shall be entitled to receive any money from the treasurer of State unless the clerk thereof shall have previously communicated to the treasurer of State the name of the person duly elected and qualified as treasurer of said city, town or plantation.

Ordinances.

Duties of city clerk. Rev. Ord. 1868.

1. The city clerk shall keep a full record of all the doings of the board of aldermen, and of all conventions of the city council, which record shall be subject at all times to the inspection of the mayor, or of any person or persons authorized thereto by the board of aldermen, or the city council. He shall notify all persons appointed to office by the mayor and aldermen, or by the city council, and he shall give notice to the chairmen of all committees, the appointment of which shall originate in the board of aldermen, and shall transmit all papers to the common council, when necessary for their convenience. He shall preserve all papers belonging to the city in suitable files, prepared for the purpose, and shall carefully keep all ordinances, after they have been finally passed, in a book or books to be inspected from time to time by the mayor and members of the city council. He shall procure all stationery and other necessary articles which may be needed by either branch of the city council, or any city officer, and keep an account thereof, to be laid before the city council. He shall draw bills and ordinances, when thereto required by any committee, and perform such other duties as may be prescribed by the board of aldermen or the city council.

Clerk to purchase stationery and blank books. Ord. April 19, 1874.

2. The city clerk shall each year, as soon after the election of subordinate city officers as may be, make an estimate of the amount of stationery and blank books as far as practicable which will be required by both branches of the city council and all officers of the city for the current municipal year, and advertise

for sealed proposals for furnishing the same according to specifications furnished by the city clerk, in the daily papers of the city, three times successively, at least seven days before the time limiting the reception of such proposals, at which time the city clerk and city auditor shall examine all such proposals and award the contract to the lowest responsible bidder residing in the city, and the city clerk shall procure such other necessary articles for said purposes which may not be furnished by contract, and keep an account of the same to be laid before the city council.[13]

All ordinances and parts of ordinances conflicting with the provisions of this ordinance, are hereby repealed.

[13] For further duties of clerk, see Drains and Sewers, Elections, City Charter.

City Constable and Messenger.

Ordinances.

1. Duties of city constable and messenger.
2. To be subject to orders of city council.

Duties of city constable and messenger. Rev. Ord. 1868.

1. There shall annually be appointed by the city council, a suitable person to be styled city constable and messenger, who shall receive, deliver, and execute all notifications, summonses, warrants, and precepts, issued by the mayor, the city council, or either branch thereof, or by any committee of the same, and make due return of the same. He shall prepare and arrange the rooms and building in which the city council hold their sessions, and be in constant attendance on the city council when in session, and under the direction of the mayor, or city clerk, shall provide fuel, lights and other things necessary for the accommodation of both branches of the city council, or any committee thereof. He shall receive and deliver all notifications to officers elected by the city council, or by the mayor and aldermen, and he shall deliver all notifications to committees when thereto requested by the city clerk, or clerk of the common council.

He shall perform the duties of clerk of the market. He shall have the superintendence of the city hall and city government house, together with the furniture, and see that they are kept in good condition and ready for use. He shall also prepare and make ready the rooms which may be selected for ward meetings, and have the same cleaned and put in order, after said meetings are adjourned.

To be subject to orders of city council. Ibid.

2. The city constable and messenger shall at all times be subject to such further orders as the city council may make.

City Council.

Statute.

1. "Municipal officers," what the term includes.

Ordinance.

1. City council, stated meetings of.

Statute.

The term, "Municipal Officers" shall be construed to include the mayor and aldermen of cities, the selectmen of towns, and the assessors of plantations.[1]

"Municipal officers." R. S., c. 2, § 4.

Ordinance.

Stated meeting of the city council shall be held on the first Monday evening of each month at seven and a half o'clock. Ord. July 15, 1873.

Special meetings of the mayor and aldermen, and common council, shall be called by the mayor at such times as he may deem expedient, by causing a notification thereof to be left at the residence or usual place of business of each member of the board or boards to be convened.

All ordinances inconsistent with this ordinance are hereby repealed.

[1] For powers and duties of the city council, see City Charter. For general power of municipal councils, see Dillon on Municipal Corporations, c. 9.

City Engineer.

Ordinances.

1. City council to choose city engineer.
2. Duties.
3. Same. Monuments.
4. Monuments not to be moved.
5. Supervision of common sewers.
6. Account of expense.
7. Plans of sewers.
8. Mean tide elevation.
9. Description of streets, drains, &c.

City council to choose city engineer. Rev. Ord. 1868. City charter.

1. There shall be chosen annually, and whenever a vacancy occurs, by the city council, a city engineer, who shall hold his office until a successor is chosen or he is removed. He shall be removable at the pleasure of the city council, and shall receive such compensation for his services as said council may from time to time determine.

Duties. Ibid.

2. The city engineer, under the direction and control of the mayor and aldermen, shall have charge of all the plans of streets belonging to the city; he shall make all surveys, admeasurements, and levels of streets in the city, and plans and profiles of the same, when thereto required as hereinafter mentioned, and perform such other surveying and engineering services as may be required by the mayor and aldermen or any committee of the city council. He may appoint assistants, subject to the approval of the mayor and aldermen, who shall receive such compensation as the city council may determine.

Same. Monuments. Ord. June 21, 1869.

3. The city engineer when required, shall take the angles contained between different street lines, and make a record of the same, as the true lines of the streets, and these angles shall all have reference to a

given base line. He shall cause monuments which shall not be less than five feet in length, in the centre of the top of which shall be a copper bolt, one-half an inch in diameter, and four inches deep; the centre of the bolt shall be placed at the intersection of lines parallel to, and three feet distant from the lines of the street, at the angle as well as at the point of intersection. The tops of the monuments when practicable, shall be set to the grade of the sidewalk. It shall be the duty of the commissioners of streets to put down such monuments when required to do so by the said engineer.

Monuments not to be moved.

4. All ordinances and parts of ordinances inconsistent with this ordinance are hereby repealed; provided that all monuments so erected shall be duly recorded, and no person shall remove or cause to be removed, any such monuments, without the consent in writing of the mayor and aldermen first obtained, under a penalty of twenty-five dollars for each offence.

Ibid.

Supervision of sewers. Rev. Ord. 1868.

5. The city engineer[1] shall, under the direction of the mayor and aldermen, take general supervision of all common sewers, which are now or hereafter may be built and owned by the city, or which may be permitted to be built or opened by its authority.

City engineer to keep account of expense, and list of persons benefited, &c. Ord. 1873, May 21.

6. The city engineer shall keep an accurate account of the expense of constructing and completing each public drain or common sewer hereafter built, and within thirty days after the completion of the same, he shall furnish to the committee on drains and sewers a statement of such expense, together with the location, and a profile description of such drain or sewer; accompanied with a plan of all the lots or parcels of land benefited thereby, which plan shall give the size and number, or other sufficient description of said lots, together with the name of the owner or owners, if known.

[1] He is ex-officio superintendent of sewers. See title "Drains and Sewers."

City engineer to make plans of sewers. Ord. 1859, June 17, and Rev. Ord. 1868.

7. The said city engineer whenever any common sewer is ordered to be built or repaired, shall ascertain its depth, breadth, mode of construction and general direction; with the dimensions of each lot of land benefited thereby, and a list of the owners of the same; and take the plan thereof, and insert the same with all those particulars in a book kept for that purpose; and shall ascertain and insert on such plan all entries made into such sewer.

Mean tide elevation to be a base line. Rev. Ord. 1868.

8. Mean tide elevation, (as obtained by the coast survey,) shall be adopted as a base line, from which all levels taken by the engineer shall be measured, and to which all grades of streets, sewers, drains, &c. shall have reference, and points shall be established in different parts of the city from which the grades can at once be accurately obtained.

Description of streets, drains, sewers, &c. to be recorded. Ibid.

9. Said engineer shall record in a book, to be kept for that purpose, marked[2] "street angles and distances," an accurate description of the angles, the points of beginning and ending of each street line, and the distances between said points. He shall also record in another book, marked "Grades of streets, sewers, drains, &c." an accurate description of all the grades of the streets, sewers, drains, &c. which books of record shall be certified by him, and be deposited among other city records.

[2] Duty as to original location of streets. Title, "Streets," § 7.

City (now) Market Hall.

1. Proceedings of the town of Portland relating to erection of town hall.
2. Use of part of same allowed to military companies.

Ordinance.

General charge of City (now Market) Hall to be with mayor.

PROCEEDINGS OF TOWN MEETING.[1]

I. At a town meeting held Monday, April 25, 1824,—

Proceedings of the town of Portland relating to erection of town hall. Town records, vol. 2, pp. 326, 335.

Voted, That a committee be appointed to report what the buildings and lots of land which form the heater above the hay scales and adjoining the town's land can be purchased for, and also to report a plan, and the probable expense of erecting a suitable building there for a market and town hall.

At a meeting held Monday, August 3, the committee made a report recommending the purchase of the lands and the erection of a building for said purposes, and the following vote was passed, viz:

Voted, To accept the report so far as relates to purchasing the land, and erecting a building for a town hall and market, agreeably to the plan mentioned in said report, of a building three stories high.

Voted, To choose a committee to carry into effect the objects of the foregoing report by making the necessary purchases and contracts, and erecting the said contemplated building.

[1] This chapter is inserted for its historical interest. The city government building, burned at the great fire July 4, 1866, and rebuilt, takes the place of the old city hall for most public purposes.

Use of part of same allowed to military companies. Ibid. p. 405.

II. At a town meeting held March 27, 1826, it was *Voted*, That the third story in the town hall, (except for so much as has been appropriated for the use of the Apprentices' Library), be appropriated to the use of the several military companies in town, and that they have liberty at their own expense to fit up armories for the deposit of their guns, &c. the whole to be under the direction of the selectmen.

Ordinance.

General charge of city hall to be with mayor. Rev. Ord. 1868.

The general charge of the city hall shall be lodged with the mayor, who may allow the free use thereof for any peaceable assembly of citizens, on application being made in writing by seven legal voters.

Clerk of the Common Council.

Ordinance.

Duty of clerk of common council.

The clerk of the common council shall keep a full record of all the doings of the common council, which shall be subject to the inspection of the mayor, president of the common council, or any committee of the city council. He shall give notice to the chairman of all committees of the common council, and he shall transmit all papers to the board of aldermen when necessary for their concurrence. He shall preserve all papers, which properly belong to the common council, and shall perform all such duties as may be prescribed to him by the board of common council, or by the city council.

Duty of clerk of common council. Rev. Ord. 1868.

Courts.

SEE MUNICIPAL COURT.

Constables.

Statute.

R. S. 1871, c. 3, § 10.

Wards to elect two constables each. Islands to elect one constable. Constable shall be elected by towns at their annual meetings.

Wards to elect two constables each.
City charter, § § 12, 13, 15.
Islands to elect one constable.

Qualified electors in each ward are authorized, at the annual election holden for the choice of mayor and aldermen, to elect two constables; and the inhabitants of the islands have power to elect one constable, who shall be a resident on some one of the islands.

SEE POLICE.

Contracts and Expenditures.

Statutes.

1. Member of city government not to vote on any question in which he has pecuniary interest.
2. Pecuniary interest in any city contract prohibited.
3. Enforcement.

Ordinances.

1. Deficiency of appropriation. Contracts not to be concluded when appropriation deficient.
2. Committees limited in expenditure.
3. Contracts for blank books, stationery, &c.

Statutes.

Members of city governments not to vote on contracts or questions of pecuniary interest to them. R. S., 1871, c. 3, § 28.

1. No member of any city government or board of selectmen of any town, shall in either board of such city government, or in any board of selectmen, vote upon any question in which he is pecuniarily interested, directly or indirectly, and in which his vote may be decisive; and no action of any city government or board of selectmen taken by means of a vote herein forbidden, shall be legal.

Pecuniary interest in any city contract prohibited. § 29.

2. No member of any city government shall be interested, directly or indirectly, in any contract entered into by such city government while he is a member thereof; and any contract made in violation hereof shall be void.

Proceedings to enforce. § 30.

3. The Supreme Judicial Court in equity, by writ of injunction or otherwise, may restrain proceedings in any town in violation of the two preceding sections, upon application therefor, of ten or more taxable citizens thereof.

Ordinances.

Deficiency of appropriation. Rev. Ord. 1868.

1. Whenever any committee or board is authorized to make any contract[1] by the city council, or to expend any moneys appropriated by the city council

[1] For contracts for stationery, see ordinances under title "City Clerk."

for any purpose, and the estimates for such contract or expenditures shall exceed in amount the appropriation specifically made for the object thereof, or the sum specifically appropriated for any purpose shall have been expended by them, and for either reason a further appropriation is necessary, such committee or board shall report to the city council the fact of such deficiency of the appropriation, a statement of the cause or causes thereof, and an estimate of the amount necessary to be added to such appropriation, and the committee or board shall not conclude such contract, or make further expenditure in the premises, until they shall be authorized so to do by the city council.

Contracts not to be concluded when appropriations are deficient.

2. No joint or special committee of the city council or either branch thereof, or any board appointed by them, shall have power to make any expenditure from the appropriation provided by the city council, to an amount exceeding three hundred dollars, except where otherwise provided in the laws of the State or ordinances of the city, until an estimate of the expenditure proposed shall have been laid before the city council, and authority for such expenditure be first had and obtained from the city council.

Committees limited in expenditures.

Ibid.

3. That the city clerk shall each year, as soon after the election of subordinate city officers as may be, make an estimate of the amount of stationery and blank books as far as practicable which will be required by both branches of the city council and all officers of the city for the current municipal year, and advertise for sealed proposals for furnishing the same according to specifications furnished by the city clerk, in the daily papers of the city, three times successively, at least seven days before the time limiting the reception of such proposals, at which time the city clerk and city auditor shall examine all such proposals and award the contract to the lowest respon-

Contracts for blank books and stationery. Ord. 1874, April 19.

sible bidder residing in the city, and the city clerk shall procure such other necessary articles for said purposes which may not be furnished by contract, and keep an account of the same to be laid before the city council.

All ordinances and parts of ordinances conflicting with the provisions of this ordinance, are hereby repealed.

Cows.[1]

Ordinances.

1. Cows not to go at large.
2. Penalty.
3. City marshal to prosecute.
4. Cows to wear straps around the neck.

Cows not to go at large. Rev. Ord. 1868.

1. No cows shall be permitted to go at large, at any time, in any of the commons, streets, lanes, squares, or alleys of the city.

Penalty. Ibid.

2. If the owner of any cow shall suffer the same to go at large on any common, street, lane, square or alley of the city, he shall forfeit and pay a sum not less than one nor more than five dollars for each offence.

City marshal to prosecute. Ibid.

3. All informations and complaints for violation of the preceding sections shall be made to the city marshal, whose duty it shall be to collect forthwith any fine incurred as aforesaid, or in default of payment thereof, to cause the owners of any such cow or cows to be prosecuted therefor.

Cows to wear straps around the neck. Ibid.

4. Every cow kept in the city shall at all times wear a strap around the neck, of not less than three inches in width, with the name of the owner and place of residence legibly painted or printed thereon. And for every cow found running at large without said strap, the owner of said cow shall forfeit and pay a sum not less than five nor more than ten dollars, to be recovered by complaint before the municipal court, one half for the use of the complainant, and the other half to the city.

[1] For statute provisions, see R. S., 1871, c. 23.

Criers.

Ordinances.

1. License to be granted to common criers. Term of license.
2. Crying without license.
3. Criers to keep a list of matters cried, &c. Shall not cry libelous matter, &c.
4. Penalty for violation.

Licenses to be granted to common criers.

1. The mayor and aldermen may, from time to time, grant licenses to such, and so many persons as they may deem expedient, to be common criers in this city, and such licenses shall continue in force until the first day of May next after the date thereof, unless sooner revoked by the mayor and aldermen.

Rev. Ord. 1868.

Term of license.

Crying without license.

2. No person shall be a common crier within the city of Portland, or cry any goods, wares, or merchandise, lost or found, stolen goods, strays, or public sales, in any of the streets, squares, lanes, or market places within the city, unless he shall be licensed as aforesaid.

Ibid.

Criers to keep a list of matters cried, &c.

3. Every person so licensed shall keep a true and perfect list of all the matters and things by him cried, and the names of the persons by whom he was employed, and subject to the inspection of the mayor and aldermen, whenever they shall demand the same; and no common crier shall publish or cry any abusive, libelous, profane or obscene matter or thing whatsoever.

Ibid.

Shall not cry libelous matter, &c.

Penalty for violation.

4. Any person who shall be guilty of a violation of this ordinance, or any part thereof, shall forfeit and pay for each offence a sum not less than one nor more than ten dollars.

Ibid.

Dogs.

Statutes.

1. Towns may pass by-laws. Owners liable for damage by dogs.
2. Dogs may be killed, when.
3. Penalty for not taking care of dangerous dogs, after notice.
4. Owner of mischievous dogs liable for injuries.
5. Tax may be imposed on dogs.

Ordinances.

1. Dogs not to go at large without license.
2. Penalty. Method of recovery.
3. Ordinances repealed.
4. City marshal to destroy unlicensed dogs.
5. Noisy dogs to be removed. Penalty for non-removal.
6. Penalty for keeping unlicensed dogs.

Statutes.

Towns may pass by-laws.

Owners of dogs liable for double damages. R. S., 1871, c. 30, § 1.

1. Towns may pass by-laws to regulate the going at large of dogs within them. When any dog does any damage to a person or his property, his owner or keeper, and also the parent, guardian, master or mistress, of any minor or servant, who owns or keeps such dog, shall forfeit to the injured person double the amount of the damage done; to be recovered by action of trespass.

Dogs may be killed that assault any person, or kill domestic animals. Ibid. § 2.

2. Any person may lawfully kill a dog, that suddenly assaults him or any other person when peaceably walking or riding, or is found worrying, wounding or killing any domestic animals out of the enclosure or immediate care of the owner.

Penalty for not confining or killing dangerous dogs, after notice. Ibid. § 3.

3. Whoever is assaulted, or finds a dog strolling out of the enclosure or immediate care of his master, may, within forty-eight hours thereafter, make oath before a justice of the peace that he really suspects such dog to be dangerour or mischievous, and notify his master by giving him a copy of said oath, signed by the justice; and if the master neglects for twenty-four hours thereafter, to confine or kill such dog, he shall forfeit five dollars to any

person suing therefor; and if such dog is again at large out of the care of the master, any person may lawfully kill him.

4. If a dog, after notice given as aforesaid, wounds any person by a sudden assault as aforesaid, or wounds or kills any domestic animals, the owner or keeper shall be liable to pay the person injured treble damages and costs.

Owner of dog assaulting person, &c., liable to treble damages. Ibid. § 4.

5. All dogs more than six months old, shall be taxed one dollar in the town where they are kept, on the first day of April each year, to the owner or person who has them in possession at that time, if towns shall so vote.

Tax imposed on dogs, if towns so vote. R. S., 1871, c. 6, § 7. 1877, c. 200. 1878, c. 72.

Ordinances.

1. Every owner or keeper of a dog shall annually cause it to be registered, described, and licensed for one year in the office of the city clerk, by paying therefor to said clerk the sum of twenty-five cents, and shall cause it to wear around its neck a collar distinctly marked with the owner's name and registered number, and shall pay into the city treasury for such license one dollar.

Dogs to be licensed in clerk's office. Ord. 1878.

2. Whoever keeps a dog contrary to the provisions of this ordinance shall forfeit ten dollars to be recovered on complaint to the use of the city.

Penalty. Ibid.

3. All fines and penalties provided in the preceding sections may be recovered on complaint before any court of competent jurisdiction in this city.

Complaint.

4. All other ordinances relating to licenses for dogs are hereby repealed.

Repeal.

5. It shall be the duty of the city marshal to cause all dogs to be destroyed which shall be found at large within the city, without a collar, as required by these ordinances.

City marshal to cause dogs at large without license to be destroyed. Rev. Ord. 1868.

6. On complaint being made to the mayor, of any dog within this city which shall by barking, biting, howling, or in any other way or manner disturb the quiet of any person or persons whomsoever, the

Proceedings in case any dog shall disturb the quiet of any person by barking, &c.

mayor shall issue notice thereof to the person owning, keeping, or permitting such dog to be kept; and in case such person shall neglect to cause such dog to be forthwith removed and kept beyond the limits of the city, or destroyed, he shall forfeit and pay one dollar for every day during which such neglect shall continue after such notice; *provided*, that the justice before whom the complaint respecting such dog shall be heard and tried, shall be satisfied that such dog had in manner aforesaid, disturbed the quiet of any person in said city.

Ibid.

Proviso.

7. In case any dog shall be found loose or going at large, contrary to any of the foregoing provisions, the owner or keeper thereof, or the head of the family or keeper of the house, store, shop, office, or other place where such dog is kept or harbored, shall forfeit and pay a sum not exceeding ten dollars.

Penalty.

Ibid.

Drains and Sewers.[1]

Statutes.

1. Public drains; construction; notice, expense, &c.
2. Appeal from municipal officers.
3. Private drains.
4. Lien, assessments.
5. Right of redemption.
6. City may sue for non-payment in some cases.
7. Certain acts repealed.
8. General authority over drains. City charter.

Ordinances.

1. Proceeding to be conformed to act of 1873.
2. Construction, &c.
3. Hearing, &c.
4. Committee on drains and sewers.
5. Sewers in center of street.
6. City engineer to have general charge.
7. Expenses.
8. Private drains.
9. Drains not to be made under sidewalk.
10. Drains not to empty on surface.
11. Water from roofs.

[1] Under R. S., 1857, c. 16, § § 2, 3, as amended by act 1860, c. 153, the municipal officers of Portland had a right to construct a sewer with an outfall in the public dock below low water mark; but there is no right to create a nuisance. If deposits accumulate so as to obstruct navigation, or cause damage to the owners of wharves, not common to the public, it is the duty of the city to cause same to be removed. And if they refuse, they will be guilty of public nuisance, and liable to wharf owners in action of tort. Franklin Wharf Co. *v.* Portland, 67 Maine, 46.

For what act of municipal officer city is liable, and as to damages, see Darling *v.* Bangor, 68 Maine, 108; Jackson *v.* Portland, 63 Maine, 55; Estes *v.* China, 56 Maine, 407; Bangor *v.* Lansie, 51 Maine, 521; Blood *v.* Bangor, 66 Maine, 154. As to constitutionality and general effect of similar provisions, to those in this chapter, see 9 Cush. 233; 114 Mass, 544; 4 Allen, 41; 13 Gray, 601; 110 Mass. 216; see also, title Health, *post*. For general laws on this subject, see R. S., 1871, c. 16.

Statutes.

Public drains and sewers, construction of, notice to be given.

Private laws 1873, c. 368, approved Feb. 26, 1873.

1. It shall be the duty of the municipal officers of the city of Portland, before commencing the construction of any public drain or common sewer, to give notice of their intention to construct said drain or sewer, to appoint a time and place for a hearing in regard to the same, and give notice thereof, by publishing the same for three successive weeks in some daily newspaper published in Portland. When said drain or sewer is completed, they shall adjudge what parcels of land are benefited by such drain or sewer, and estimate and assess upon such lots and parcels of land, and against the owner thereof, if known, such sum, not exceeding such benefit, as they may deem just and equitable, towards defraying the expenses of constructing and completing such drain or sewer, the whole of said assessments not to exceed two-thirds of the cost of such drain or sewer, and such drain or sewer shall forever thereafter be maintained and kept in repair by said city; such municipal officers shall file with the clerk of said city the location of such drain or sewer, with a profile description of the same, with the amount assessed upon each lot or parcel of land so assessed, and the name of the owner of each lot or parcel of land if known, and the clerk of said city shall record the same in a book kept for that purpose, and within ten days after filing such notice, each person so assessed shall be notified of such assessment, by having an authentic copy of said assessment, with an order of notice signed by the clerk, stating a time and place for a hearing on the subject-matter of said assessments, giving to each person so assessed, or left at his usual place of abode in said city; if he has no place of abode in said city, then such notice shall be given to or left at the abode of his tenant or lessee, if he has one in said city; if he has no such tenant or lessee in the said city, then by posting the same in some conspicuous place in the vicinity of the lot or parcel of land so assessed, at least thirty days before said hearing, or such notice may be given by publishing the same three weeks successively in any newspaper published in said city, the first publication to be at least thirty days before said hear-

Expense, how maintained.

Location to be filed with city clerk.

ing; a return made of a copy of such notice by any constable in said city, or the production of the paper containing such notice shall be conclusive evidence that said notice has been given, and upon such hearing the municipal officers shall have power to revise, increase, or diminish any of such assessments, and all such revision, increase, or diminution shall be in writing, and recorded by such clerk.

Appeal. Ibid.

2. Any person who is aggrieved by the doings of said municipal officers in laying out and constructing said sewer, or in making said assessments, may appeal therefrom to the next term of the Supreme Judicial Court which shall be holden in the county of Cumberland, more than thirty days from and after the day when the hearing last mentioned is concluded, excluding the day of the commencement of the session of said court; the applicants shall serve written notice of such appeal upon the mayor or city clerk, fourteen days at least before the session of the court, and shall at the first term file a complaint setting forth substantially the facts in the case; either party shall be entitled to a trial by jury, or the matter in dispute may, if the parties so agree, be decided by a committee of reference, and the court shall render such judgment and decree in the premises as the nature of the case may require; at the trial exceptions may be taken to the ruling of the judge, as in other cases.

Notice.

Matter in dispute, how adjusted.

Private drains. Ibid.

3. Any person may enter his private drain into any such public drain or common sewer while the same is under construction and before the same is completed, and before the assessments are made, on obtaining a permit in writing from the municipal officers, or the committee having the construction of the same in charge; but after the same is completed and the assessments made, no person shall enter his private drain into the same until he has paid his assessment and obtained a permit in writing from the municipal officers. All permits given to enter any such drain or sewer shall be recorded by the city clerk of said city before the same is issued.

Lien.

Assessments.

4. All assessments made under the provisions of this act shall create a lien upon each and every lot or parcel

of land so assessed, which lien shall continue one year after said assessments are payable, and within ten days after they are made; the clerk of said city shall make out a list of all such assessments, the amount of each assessment, and the name of the person, if known, against whom the same is assessed, to be by him certified; and he shall deliver the same to the treasurer of said city, and if said assessments are not paid within three months from the date of said assessments, then the treasurer shall proceed and sell such of said lots or parcels of land upon which said assessments remain unpaid, or so much thereof, at public auction, as is necessary to pay such assessments and all costs and incidental charges in the same way and manner that real estate is advertised and sold for taxes under chapter six of the revised statutes, which sale shall be made within one year from the time said assessments are made; and upon such sale the treasurer shall make, execute, and deliver his deed to the purchaser thereof, which shall be good and effectual to pass the title to such real estate.

For non-payment, treasurer may sell lots.

Deed. Ibid.

5. Any person to whom the right by law belongs, may at any time within one year from the date of said sale, redeem such real estate by paying to the purchaser or his assigns the sum for which the same was sold, with interest thereon at the rate of twenty per cent. per annum, with costs for reconveyance.

Right of redemption. Ibid.

6. If said assessments are not paid, and said city does not proceed to collect said assessments by a sale of the lots or parcels of land upon which said assessments are made, or does not collect, or is in any manner delayed or defeated in collecting such assessments by a sale of the real estate so assessed, then the said city in the name of the inhabitants of said city, or in the name of such city, may sue for and maintain an action against the party so assessed, for the amount of said assessment as for money paid, laid out and expended, in any court competent to try the same, and in such suit may recover the amount of such assessment with twelve per cent. interest on the same from the date of said assessment, and costs; provided, however, that if any lot, when sold in the manner

In non-payment of assessments, city may sue parties in some cases.

Proviso. Ibid.

before provided, shall not sell for enough to pay the amount of said assessment with interest and cost, the owner thereof shall be under no personal liability for the same.

Certain acts repealed. Ibid.

7. All acts and parts of acts inconsistent with this act are hereby repealed. This act and repeal shall not apply to or effect any drain or common sewer constructed, or assessment made, prior to the approval of this act.

General authority. City charter, March 27, 1863, § 24.

8. The mayor and aldermen of said city may lay out, make, maintain and repair all main drains or common sewers in said city, and may assess upon the owners of the abutting lots and other lots benefited thereby, and who shall enter the same directly or indirectly, a proportional part of the charge of making such main drain or common sewer, to be ascertained and assessed by the mayor and aldermen of said city, and by them certified, after notice thereof given in writing to the party to be charged, or by public advertisement for seven days in two daily papers in said city; but not less than a third part of the cost of such main drain or common sewer shall be paid by the city, and shall not be charged to the abuttors. All assessments so made shall constitute a lien on the real estate so assessed, for two years after they are laid. They shall be certified by the mayor and aldermen, under their hands, to the treasurer and collector of said city and his successors, with directions to collect the same according to law, and may, together with all incidental costs and expenses, be levied by sale of the estate by him or them, if the assessment is not paid within three months after a written demand of payment made by him or them, either upon the person assessed or upon any person occupying the estate — such sale to be conducted in like manner as sale for non-payment of taxes on land of resident owners, and with a similar right of redemption. Any person, who may deem himself aggrieved by any such assessments, may appeal to the Supreme Court in the same manner as is herein provided for appeals for damages for laying out streets, which court shall at the first term appoint three persons who may be inhabitants of said city, to settle and assess the share to be charged to such appellant; they shall make a return of their doings

to said court, and their decision, if accepted, shall be final. And in case the assessment made by the mayor and aldermen shall not be reduced on such appeal, the city shall recover costs, but otherwise shall pay costs. Any person who shall, directly or indirectly, enter any such main drain or common sewer without first obtaining a permit from the mayor therefor, shall be subject to a fine not exceeding one hundred dollars.[2]

Ordinances.

Proceedings to be in conformity to act of 1873. Ord. May 21, 1873.

1. Hereafter[3] all proceedings relating to assessments on account of the construction of public drains and common sewers, and the collection of the same, shall be in conformity to the provisions of an act entitled "An act relating to drains and sewers, in the city of Portland," approved February 26, 1873. Whenever it shall appear by the report of the committee on drains and sewers, that the public interests require the construction of any public drain or common sewer, the board of mayor and aldermen shall, before proceeding to construct the same, appoint a time and place for a hearing in regard to said drain or sewer, and shall give notice of their intention to construct the same, and of the time and place appointed for said hearing, by publication for three successive weeks in some daily newspaper published in the city.

Ibid. Construction.

2. The city engineer shall keep an accurate account of the expense of constructing and completing each public drain or common sewer hereafter built, and within thirty days after the completion of the same, he shall furnish to the committee on drains and sewers a statement of such expense, together with the location, and a profile description of such drain or sewer;

[2] The special act of 1854, c. 77, was repealed so far as it was in conflict with the city charter of 1863, March 27. The special act 1871, c. 717, was repealed so far as relates to Portland, and so far as in conflict with the act 1873, c. 368.

[3] Inconsistent ordinances repealed.

accompanied with a plan of all the lots or parcels of land benefited thereby, which plan shall give the size and number, or other sufficient description of said lots, together with the name of the owner or owners, if known, and said committee shall thereupon determine what lots or parcels of land are benefited by such drain or sewer, and shall estimate and assess upon such lots or parcels of land and against the owners thereof, if known, such sum not exceeding such benefit as they may deem just and equitable, toward defraying the expenses of constructing and completing such drain or sewer, the whole of such assessments not to exceed two thirds of the cost of such drain or sewer. Said committee shall report their proceedings to the mayor and aldermen for their action. Their report shall show the amount assessed upon each lot or parcel of land, the location, number, or other sufficient description of which shall be given, together with the name of the owner or owners thereof, if known; and shall also include the location, and the profile description of such drain or sewer.

Ibid. Hearing, &c.

3. If the report of said committee is accepted, a hearing shall be ordered thereon, a notice of which shall be given by publishing an authentic copy of said assessment, with an order of notice signed by the city clerk, stating the time and place for a hearing upon the subject matter of said assessments, three weeks successively in any newspaper published in this city, the first publication to be thirty days before said hearing, and such further proceedings shall thereupon be had as are provided in this act.

Committee on drains and sewers to be appointed. Rev. Ord. 1855, as amended by city charter.

4. There shall annually be appointed, a committee of the mayor and aldermen, to be called the committee on drains and sewers, to consist of three members of the board of mayor and aldermen.

Sewers to be built in centre of street. Ord. May 26, 1863, § 1. Rev. Ord. 1868.

5. All common sewers which shall be considered necessary by the mayor and aldermen in any street or highway, shall be laid, as near as possible, in the centre of such street or highway, shall be built by contract or otherwise at the expense of the city, of such dimensions, and of such materials, as the committee on drains and sewers or the mayor and aldermen shall direct.

City engineer to supervise. Ibid. § 2,

6. The city engineer shall, under the direction of the mayor and aldermen, take general supervision of all common sewers, which are now or hereafter may be built and owned by the city, or which may be permitted to be built or opened by its authority.

Expenses apportioned between city and abuttors. Ibid. § 4. In part repealed by Ord. of May 21, 1873, *supra*.

7. One-third part of the cost of all main drains or sewers, which shall be constructed under the direction of the mayor and aldermen, shall be paid by the city. The remaining two-thirds of the same shall be assessed upon the persons and estates deriving benefit therefrom, apportioning the assessment according to the number of square feet in each lot of land thus benefited. But no part of the cost of constructing the culverts required for such drain or sewer shall be charged to the abuttor. No sewer shall be built unless sufficient surety be given to the city by the owners of the abutting lands, that one-half of the assessments made shall be paid to the city within one year from the completion of such sewer, except in cases where the committee on drains and sewers shall decide that the direct interest of the city requires that a sewer shall be built.

Private drains. Ibid.

8. All private drains which shall hereafter enter into such public sewer shall be built of such materials as the mayor and aldermen shall direct, and shall be laid under the direction of the mayor and aldermen, or by some person by them appointed; and they shall be laid in such direction, of such size, with such descent, and (where required) with such strainers as

they shall require, and in such manner as they shall determine.

9. No person shall sink or lay any drain or aqueduct under any sidewalk, or nearer such sidewalk than the outer edge of the gutter of such street, under a penalty of not less than ten nor more than fifty dollars, provided that nothing herein contained shall prevent any person from constructing a sewer from his land or premises to the public sewer.

Drains not to be sunk under sidewalks.
Penalty.
Ibid. § 7.

10. No person shall let out or empty upon the surface of any street, lane, or alley, any cellar drain, sink drain, or other drain, so that the water shall flow therefrom on to the street, lane or alley, under a penalty of ten dollars for each offence, and the further sum of ten dollars for each month that such drain shall be so continued to be let out or emptied as aforesaid.

Drains not to empty upon surface.
Penalty.
Ibid. § 8.

11. It shall be lawful for all persons having care of any buildings, at their own expense, to carry the rain water from the roofs of said buildings into any public sewer, free of any charge from the city, provided that the same be done by light water spouts or tubes under ground, and under the direction of the mayor and aldermen.[4]

Water from roofs.
Ibid. § 9.

[4] The last eight sections are modified, though not repealed by Ord. May 21, 1873, *supra*.

Elections.

Statutes.

1. Qualifications of electors. Exceptions.
2. Electors exempt from arrest on days of election.
3. " " " military duty, when.
4. Time of State election. Biennial election.
5. Who are legal voters.
6. Assessors, when to prepare lists of voters.
7. Selectmen to prepare corrected lists.
8. Time, &c., of holding meeting to correct lists.
9. Aldermen to be in session, when, in cities of more than 1000 voters.
10. Aldermen to be in session four days, in cities of more than 10,000 voters.
11. List of voters to be posted. Removals.
12. Lists to be deposited with the clerk, and posted. Names not to be added or stricken out, except, &c.
13. Papers of naturalization. Duties of selectmen.
14. Mode of warning meetings for election of governor, &c.
15. Time of opening polls.
16. What votes shall be on one list.
17. Check list required. Ballot box, one only allowed.
18. Votes to be on clean white paper.
19. Adjournment of meeting, when no choice of representative is effected.
20. Meetings for choice of certain officers, how regulated.
21. Result of ballotings, how ascertained.
22. Clerk to transmit returns to secretary of State.
23. County attorney to be notified, if return not received.
24. Loss of returns, how supplied.
25. Oath to be made to copy of record.
26. Certificate, how sealed and returned.
27. Vacancies, how filled.
28. Check lists to be preserved by clerks.
29. Ballot boxes, how constructed. Votes, how received.
30. Penalties in certain cases.
31. Electors in cities to meet in wards.
32. Warden, *pro tem.* may be chosen.

33. In cities, representatives, how voted for.
34. " " if no choice, further meetings.
35. " " wardens, and clerks of wards, how elected.
36. Penalty for neglect of duty by selectmen.
37. " " " to issue warrant.
38. " " " of constable to summon voters.
39. " " " to deposit and post lists.
40. " " " to keep check lists, or to reject illegal votes.
41. Penalties, how recoverable.
42. Penalty for municipal officers striking off names without notice.
43. Penalty for erasing lists, fraudulent voting, &c.
44. " " neglect to supply lost return.
45. " " making false certificate.
46. " " neglect to deliver returns to secretary of State.
47. County Attorney to prosecute for willful negligence in delivering returns.
48. Liability of town officials limited.
49. Punishment for misconduct of voters.
50. " " bribery and corruption.
51. " " intentionally voting where not entitled.
52. Betting at elections prohibited and punished.
53. Mayor or treasurer to sue for penalty.
54. Money paid on wager to be recovered by action on the case.
55. Conveyances by reason of wager to be void.
56. Island wards. Election of certain officers therein.
57. Mode of determining election of certain officers.

Ordinances.

1. Form of warrants for ward meetings.
2. Warrants for ward meetings to be served by constables and returned.
3. Form of warrants for general meetings.
4. Warrants for general meetings to be served by constables and returned.
5. Time of opening and closing polls.

Statutes.

Qualifications of electors. Exceptions. Const. of Maine Art. 2, § 1.

1. Every male[1] citizen of the United States of the age of twenty-one years and upwards, excepting paupers,[2] persons under guardianship, and Indians not taxed, having his residence established in this State for the term of three

[1] Opinion of justices, 44 Maine, 507, and 68 Maine, 589, 592; State *v.* Symonds, 57 Maine, 148; Holt *v.* Holt, 58 Maine, 564.

[2] For construction of the question as to who are debarred as "paupers" see Opinion of Justices, 7 Maine, 497.

months next preceding any election, shall be an elector for governor, senators and representatives, in the town or plantation where his residence is so established; and the elections shall be by written ballot.[3] But persons in the military, naval or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack or military place, in any town or plantation; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the town or plantation where such seminary is established.

Written ballot.

Soldiers and seamen in the United States service.

Students at colleges and academies.

No person however shall be deemed to have lost his residence by reason of his absence from the State in the military service of the United States, or of this State.

Resolve of 1864.

Amendment, Art. X, to the Const.

2. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at, going to, and returning therefrom.[4]

Electors exempt from arrest on days of election.

Const. Art. 2. § 2.

3. No elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger.

And from military duty.

Ibid. § 3.

4. The election[5] of governor, senators and representatives, shall be on the second Monday of September biennially[6] forever. The governor, senators and representatives in the legislature, shall be elected biennially, and hold office two years from the first Wednesday in January next succeeding their election.

Time of election.

Ibid. § 4, and amendment of 1879.

Biennial elections.

Amend. to const. 1879.

5. Every person, who is qualified by the constitution of this State to vote for governor, senators and representatives, in the town in which he resides, is entitled to vote in the election of all town officers, and in all the business affairs thereof.

Who are legal voters.

R. S., 1871, c. 3, § 9.

6. In every town, where the selectmen are not the assessors, the assessors on or before the first day of August in each year in which an election for governor, senators and representatives is held, shall prepare a list of the

Assessors to prepare lists of voters and deliver to the selectmen.

[3] Printed ballots are "written" ballots, 7 Maine, 492. For law as to distinguishing marks, see Opinion of Justices, 54 Maine, 602, and 70 Maine, 567.

[4] He must be actually on the way. Hobbs *v.* Getchell, 8 Maine, 187.

[5] Constitutional amendment so as to elect the Governor by *plurality* instead of majority. Resolves, 1880, c. 159, adopted by people September 13, 1880.

[6] Biennial elections provided for. Resolves 1879, c. 151, adopted by people September 9, 1879.

persons they judge to be constitutionally qualified to vote therein in the election of governor, senators, and representatives, and deliver it to the selectmen for their information.

R. S., 1871, c. 4, § 1, and 1880, c. 239.

7. The selectmen[7] of every town, on or before the eleventh day of August in each year, in which an election for governor, senators and representatives is held, shall prepare a corrected list of persons qualified as aforesaid.

Selectmen to prepare a corrected list. Ibid. § 2, and 1880, c. 239.

8. They shall be in session at some convenient time and place, by them notified in the warrant for calling the meeting in such town, on the secular day next preceding the day of annual election of town officers in the month of March, or on the morning of the day of election, to hear and decide upon the applications of persons claiming to have their names entered upon said list; and such session when held on a secular day preceding the day of election shall continue at least three hours, and when held on the day of election shall continue until the election of town officers required by law to be elected by ballot shall have been completed.

Time and manner of holding meetings to correct list of voters. R. S., 1871, c. 4, § 12, not applying to cities. See § 10, of this chapter.

9. In cities containing one thousand and more qualified voters, the aldermen shall be in session on each of not less than three secular days next preceding any day of election when a list of voters is required, at some central and convenient place, to receive evidence of the qualifications of voters whose names are not on the lists; and on satisfactory evidence produced at such session, they shall enter the name of the person qualified on the list for the proper ward. And no application shall be received after the hour of five o'clock, afernoon, on the secular day next preceding said day of election, and no names shall be added to the lists of voters on the day of election by certificate or otherwise. In cities containing a less number of voters, the aldermen shall hold, prior to the day of election, the same number of sessions for receiving such evidence, as selectmen of towns having a similar number of inhabitants are required to hold. For the purposes of this section, three aldermen shall be a quorum. Notice of the times and places of all sessions, required by this

In cities of 1000 voters. voters. Aldermen to be in session to receive application of persons claiming a right to vote three days preceding election. Ibid. § 45.

See next section for provision, applicable to Portland.

Three to be a q uorum.

[7] This statute is directory. Non-compliance with some of its provisions does not invalidate an election. Mussey *v.* White, 3 Maine, 290; Capen *v.* Foster, 12 Pick. 485.

Notice of session to be given in warrant. Polls to be closed at four o'clock. R. S., c. 4, § 46.

and the preceding section, shall be given in the warrant for calling ward meetings. In all elections in cities, the polls shall be open until four o'clock, afternoon, and then be closed.

Aldermen of cities of ten thousand inhabitants, or more, to be in session *four* days to receive evidence of qualifications of voters. 1878, c. 73, amending 1876, c. 107.

10. In cities containing more than ten thousand inhabitants, the aldermen shall be in open session on each of not less than four secular days next preceding any day of election, when a list of voters is required, at some convenient place, to receive evidence of the qualifications of voters whose names are not on the list; and on satisfactory evidence produced at such session, they shall enter the names of the persons qualified on the list for the proper ward; and for said purposes said aldermen shall be in session from nine to twelve o'clock in the forenoon, and from two to five o'clock in the afternoon on each of said days; and in cities containing less than ten thousand inhabitants the aldermen shall be in open session on each of not less than three secular days, for the purposes provided in this section. In all towns, cities not included, having one thousand or more registered voters, the municipal officers thereof shall receive applications of persons claiming a right to vote, on the three secular days next preceding the day of election, and no application shall be received after the hour of five of the clock in the afternoon on the secular day next preceding said day of election; and no name shall be added to the list of voters on the day of election, by certificate or otherwise, except such as were upon the list of the previous year, and have been inadvertently omitted by the selectmen; and no change shall be made in names except to correct clerical errors therein.

No names shall be entered on the list of voters in cities and towns, having one thousand or more registered voters, except on the three secular days preceding election. Exceptions. R. S., 1871, c. 4, § 16, 1878, c. 62.

List of voters resident in wards, to be posted in cities having more than one thousand voters. Removals from ward to ward, 1880, c. 169.

11. In all cities having more than one thousand legal voters therein, it shall be the duty of the aldermen thereof to post up in some public place in each ward, a true printed or written list of the legal voters resident in said ward, at least seven days previous to the day of any election. No qualified elector who has removed his residence from one ward to another in any city within the sixty days next preceding any election, shall vote at such election in the ward to which he has removed, but his

name may be placed on the check list of the ward from which he has removed, and he may vote therein.

Lists to be deposited with clerk and posted. R. S., 1871, c. 4, § 4. 1880, c. 239.

12. On or before the twentieth day of August in each year in which an election for governor, senators and representatives is held, the selectmen shall deposit in the office of the town clerk, an alphabetical list of voters thus prepared and revised, and post up a similar list in one or more public places in the town. After such lists are thus prepared, deposited with the clerk, and posted up, the selectmen shall not add thereto, nor strike therefrom, the name of any person, except in open session on one of the days prescribed by law for receiving evidence of the qualifications of voters; nor shall they strike from said list the name of any person residing in the town, without notice first given to him that his right to vote is questioned, and an opportunity for a hearing on one of such days. But at any regular session for receiving such evidence, the selectmen shall place on the list of voters, the name of every person known by, or proved to them to be so qualified, whether he applies therefor or not.

Names not to be added or stricken out, except as provided. R. S., 1871, c. 4, § 5. See §§ 39 and 48, *post*.

Names may be added at regular session on evidence.

Selectmen, duties respecting papers of naturalization. Ibid. § 6.

13. When a person of foreign birth exhibits papers of naturalization, issued to him in due form by a court having jurisdiction, to the selectmen of his town, if satisfied of their genuineness, and that such person is entitled to vote, they shall approve such papers by a written indorsement thereon, with the date thereof, signed by one of them; register in a book kept for that purpose, the name of the person, the date of the papers, the date of approval, and the name of the court by which they were issued; cause the name of such person to be entered on the list of voters; and continue his name on the successive lists so long as he continues to reside there and is in other respects qualified to vote. If they are of opinion, that such papers are not genuine, or were not issued to the person presenting them, or that he is not for other cause a legal voter, they shall not approve them or perform the other acts required; but he shall not, by their refusal to approve his papers, or to enter his name, be deprived of his right to vote, upon satisfactory proof of it.

14. The selectmen of every town, by their warrant, shall cause the inhabitants thereof, qualified by the con-

Mode of warning meetings for election of governor, &c. Ibid. § 17. 1880, c. 239.

stitution, to be notified and warned, seven days at least before the second Monday of September, biennially, to meet at some suitable place, designated in said warrant, to give in their votes for governor, senators and representatives, as the constitution requires, and such meeting shall be warned in the manner legally established for warning other town meetings therein.

Time of opening meeting, and of closing same in certain towns. R. S., 1871, c. 4, § 18. Time of closing in certain towns.

15. No such meeting shall be opened before ten o'clock in the forenoon on the day of election, unless the number of voters in such town exceeds five hundred; if it does, an earlier and suitable time in the day may be appointed by the selectmen. In all elections for the choice of State officers and of electors of president and vice president of the United States, in towns and plantations having more than five hundred and less than five thousand inhabitants, if the time is not otherwise fixed by law, the polls shall be kept open until five o'clock in the afternoon and then be closed.

What votes shall be on one list. R. S., 1871, c. 4, § 23. What votes on one list.

16. At every meeting for the choice of governor, senators, representatives, and other public officere requiring the like qualifications in the electors, the selectmen or other officer presiding shall require the electors to give in their votes for the officer or officers to be chosen on one list or ballot, or so many of such officers, as the voter determines to vote for; designating the intended office of each person voted for.

Check list required. Rules prescribed. Ibid. § 25. One ballot box only allowed.

17. The selectmen or other officers presiding at any election shall keep and use the check list herein required at the polls during the election of any such officers; and have and use suitable ballot boxes to be furnished at the expense of the town, and no vote shall be received unless delivered by the voter in person, nor until the presiding officer or officers have had an opportunity to be satisfied of his identity, and shall find his name on the list and mark it and ascertain that his vote is single; nor shall more than one ballot box be used for receiving votes at any election at any one time.

Votes to be on white paper without marks. Ibid. § 29.

18. No ballot shall be received at any election of State or town officers, unless in writing or printing upon clean white paper without any distinguishing mark or figures thereon, besides the name of the person voted for, and

the offices to be filled, but no vote shall be rejected on this account, after it is received into the ballot box.

19. When at a town meeting held for the election of representatives to the State legislature, by reason of two or more persons having an equal number of votes, a choice is not effected of any or all the representatives to which the town is entitled, the meeting shall be adjourned to the same day of the week following, and to the same hour and place at which the first meeting was called; and at such adjourned meeting, the voters shall give in their votes for so many representatives as are necessary to make up the number to which said town is entitled; and like adjournments shall be had until the full number is elected.

When no choice of representative is effected meeting shall be adjourned one week, and from week to week. Ibid. § 30.

20. All town meetings, requiring to be held for the election of county treasurer, of register of deeds, or of representatives to Congress, or of electors of president and vice-president of the United States, or for the determination of questions expressly submitted to the people by the legislature, as to calling, notifying and conducting them, shall be subject to the regulations made in this chapter for the election of governor, senators, and representatives, unless otherwise provided by law.

Meetings for choice of certain officers and for determining questions. Ibid. § 31.

21. In order to determine the result of any election[8] by ballot, the number of persons who voted at such election, shall first be ascertained by counting the whole number of separate ballots given in, which shall be distinctly stated, recorded, and returned. No person ineligible to the office shall be declared elected; but votes cast for such person shall be counted to determine whether any person has received the necessary number of all the votes cast. In case of representatives to congress, and to the State legislature, registers of deeds, county and State officers, except where a different rule is prescribed in the constitution, the person or persons, not exceeding the number to be voted for at any one time for any such office, having the highest number of votes given at such election, shall be declared to be elected, and the governor

Results of ballotings, how ascertained. Ibid. § 32. 1877, c. 213. 1878, c. 2.

[8] See amendment to State Constitution, Articles VII and IX, and Opinion of Justices, 70 Maine, 560.

shall issue a certificate thereof. If by reason of two or more of the persons having the highest number of votes receiving an equal number, the election of the requisite number of officers cannot be declared, without declaring more than the requisite number elected, no one of those having an equal number of votes shall be declared to be elected. In all other cases no person shall be deemed or declared to be elected who has not received a majority of the whole number of votes counted as aforesaid; and if a number greater than is required to be chosen receive a majority of the whole number of votes so given, the number so required of those who have the greatest excess in votes over such majority, shall be declared to be elected. If the number to be elected cannot be so completed, by reason of any two or more of such persons having received an equal number of votes, the person having such equal numbers shall be declared not elected. In all cases not otherwise provided for, if no person eligible to the office receives the requisite number of votes to elect him, then the governor shall order a new election; provided, however, that nothing contained in this section shall be construed to give the governor and council any authority to determine questions of eligibility in cases of senators and representatives to the legislature.

Clerk to transmit returns of votes to Secretary of State. Ibid. § 33.

22. The clerk of each town shall deliver or cause to be delivered at the office of the secretary of State, the returns of votes given in his town, for governor, senators, representatives to the legislature, representatives to Congress, electors of president and vice president of the United States, and for county officers, within thirty days next succeeding any meeting for their election, or shall deposit them, post paid, in some post office, directed to the secretary of State, within fourteen days after such meeting, to be transmitted by mail; and shall also forward, as soon as practicable, to such office a statement attested by him of the number of votes for said several officers, given at such election in his town, which shall be opened and filed by the secretary, and kept for the examination of the public.

23. If any such return is not received by the secretary of State within thirty days next after such meeting, he

shall forthwith notify the county attorney of the county in which such town is situated, who shall give immediate notice thereof to the clerk of such town, and unless he receives satisfactory evidence, that said clerk has complied with the requirements of the preceding section, he shall prosecute for the penalty hereinafter provided.

County attorney to be notified if return not received. His duty. Ibid. § 34.

24. When any such original return is in any way lost or destroyed, the selectmen and clerk of such town, on receiving information of such loss or destruction, shall forthwith cause a copy of the record of the meeting at which such vote was given, to be made with their certificate upon the same sheet, that it is a true copy of the record, that it truly exhibits the names of all persons voted for, for the offices designated, and the number of votes given for each at such meeting, and that said copy contains all the facts stated in the original return.

Loss of returns, how supplied. Ibid. § 35.

25. The selectmen and town clerk, who were present at the meeting and signed the original return, shall sign the certificate mentioned in the preceding section, designating their office against their names as in the original return, and make oath that said copy and certificate are true, before some justice of the peace of the county, who shall make certificate of such oath on the same paper.

Oath to be made to copy of record. Ibid. § 36.

26. Such copy and certificate shall then be sealed up, and directed to the secretary of the State, with the nature of the contents written on the outside; and the clerk of such town shall cause the same to be delivered into the office of the secretary of State, as soon as may be.

Certificate, how sealed and returned. Ibid. § 37.

27. When the selectmen of any town, not classed with others as a representative district, by any means have knowledge that the seat of a representative thereof has been vacated by death, resignation, or otherwise, they shall forthwith issue their warrant, giving at least seven days' notice, for a meeting of the electors of said town to fill such vacancy; and at such meeting the like proceedings shall be had, as at any meeting held on the second Monday in September for the like purpose.

Vacancies how filled in towns not classed for representatives. Ibid. § 38.

28. The clerks of towns shall preserve the check lists used at the September elections, for one year thereafter without alteration, and shall furnish to any person an

Check lists to be preserved by clerks of towns and to

furnish certified copies. Ibid. § 26. See Ibid. §§ 13 and 14

exact and certified copy thereof within twenty days after demand and the payment or tender of the legal charges therefor, under the penalty provided in section fifty-one of chapter four of the revised statutes.

Ballot boxes, how constructed and used. Votes, how received. Officers, duties of. Ibid. § 27.

29. The ballot boxes used at elections, shall be covered at the top with only a slide opening, and such slide shall not be opened till the name of the person offering his vote, is found and checked on the list, and then shall be shut till another voter presents himself, and his name is found and checked; and if the presiding officer or officers do not comply with these requirements, they shall be subject to the penalties provided in section fifty-one of chapter four of the revised statutes.

Penalties in certain cases. — how recovered. Ibid. § 28.

30. Any penalties provided for in the two preceding sections hereof or in said chapter four of the revised statutes, in case the treasurer refuses or neglects for ten days after written request of any voter to commence a suit therefor, may be recovered by said voter in a suit in his own name to the same uses as specified in said chapter four.

Electors in cities to meet in wards. Ibid. § 39. Warden to preside.

31. For all the purposes mentioned in chapter four, sections seventeen and thirty-one, of the revised statutes, the inhabitants of cities shall meet as the constitution requires, in ward meetings, to be notified and warned, as town meetings for similar purposes are. The warden shall preside; the clerk shall make such record as the constitution requires; and the city constables shall preserve order.

Warden pro tempore may be chosen. Ibid. § 40.

32. If the warden is absent from any such meeting, or refuses or neglects to preside, a warden pro tempore shall be chosen, and during such choice the ward clerk shall preside; and the warden pro tempore accepting the trust, shall be duly sworn, and have the power and perform the duties of warden of such meeting, and be liable to like penalties.

In cities, names of representatives on same lists as other officers. Ibid. § 43.

33. In voting for representatives to the State legislature in the wards of a city, the names shall be on the same ballot with the other officers to be chosen at the meeting by voters of like qualifications, unless the board of aldermen in their warrant notifying the meeting require a separate ballot or ballots, which they may do.

34. When a choice of any such representative is not effected, the aldermen shall call new meetings of the wards for the purpose, to be held at the same time, within two weeks after any former meeting; and the like proceedings shall be had at such meetings, as at the first, until a choice is effected.[9] And when the aldermen of a city by any means have knowledge that the seat of a representative therein has been vacated by death, resignation, or otherwise, they shall call meetings of the ward for the purpose of filling such vacancy; and like proceedings shall be had at such meetings as at other meetings for the election of representatives.

If no choice, further meetings. Ibid. § 44.

Vacancies by death, and otherwise. See also Ibid. §§ 38 and 47.

35. At the annual election for the choice of mayor and aldermen in the several cities of this State, the qualified electors in each ward shall by written ballot elect a warden and clerk, who shall enter on the duties of their respective offices on the Monday next following their election, and shall hold their offices for one year therefrom, and until others shall have been chosen and qualified in their places.

Wardens and clerks in cities, how elected. —term of office of R. S., c. 3, § 26.

36. If any selectman, or other town, city, or plantation[10] officer, or any such officer chosen pro tempore, wilfully neglects or refuses to perform any of the duties required of him, or wilfully does, authorizes, or permits to be done, any thing prohibited by the constitution or by by law, he shall for each offence, forfeit not less than fifty, nor more than five hundred dollars, and be imprisoned in jail, not more than nine, nor less than three months, except where otherwise expressly provided.

Penalty for neglect to perform duties required of selectmen. R. S., c. 4, § 51.

37. If the aldermen of cities, selectmen of towns, or assessors of plantations neglect to issue their warrant as required by law for a meeting for the choice of State or county officers, representatives to the legislature, or to Congress, or of electors of president and vice-president of the United States, they shall each forfeit fifty dollars to their city, town, or plantation, to be recovered in an action of debt by the treasurer thereof, or by any citizen thereof when said treasurer is a member of the delinquent board.

Penalty for neglect of municipal officers to issue warrants for meetings for choice of officers.

Penalty, how recovered, and by whom. Ibid. § § 52, 63.

[9] Opinion of Justices, 70 Maine, *supra*.

[10] State *v.* Small, 10 Maine, 109; Capen *v.* Porter, 12 Pick. 490.

Penalty for neglect of constable to summon voters.

38. If any constable or other person legally required to summon the voters of a city, town, or plantation to assemble at any meeting for the choice of any officers mentioned in the preceding section, neglect to do so, or to make due return of the warrant therefor, he shall forfeit twenty-five dollars to his city, town, or plantation for each offence, to be recovered as provided in the preceding section; but if he wilfully neglects or refuses to do so, he shall forfeit not less than fifty, nor more than two hundred dollars, half to the State and half to the prosecutor, to be recovered by indictment.

Penalty for wilful neglect to be recovered by indictment. Ibid. § 53.

Penalty for neglect to deposit and post lists.

39. If the selectmen of a town or assessors of a plantation wilfully neglect to deposit a list of the voters with the town or plantation clerk, and to post up such lists, as are herein before required, they shall each forfeit not less than fifty, nor more than one hundred dollars; and for each day's neglect after the twentieth day of August, and until the election then next ensuing, they shall each forfeit thirty dollars.

Ibid. § 54.

Penalty for neglect to keep check lists, or to reject illegal votes. Ibid. § 55.

40. If such selectmen or assessors wilfully neglect or refuse to keep and use a check list, as provided in section twenty-five, chapter four, of the revised statutes, or wilfully receive any vote prohibited by section twenty-nine, they shall each forfeit not less than fifty, nor more than one hundred dollars.

Penalties, how recoverable. Ibid. § 56.

41. The penalties in the two preceding sections may be recovered in an action of debt, in the name and to the use of the town or plantation where the offence is committed, to be commenced and prosecuted to final judgment at the request of any voter therein, by the treasurer, unless he is one of the delinquent officers, and in that case, by one of the constables.

Penalty for municipal officer striking names from list without notice. Ibid. § 57.

42. If any municipal officer strikes from the list of voters, after it is prepared and posted, the name of any person residing in the town, without the notice and opportunity for hearing provided by law, he shall forfeit not less than twenty, nor more than one hundred dollars, to be recovered in an action on the case by the person whose name was struck out.

Penalty for altering,

43. If any person wrongfully alters, erases, or mutilates any name on a list of voters, or fraudulently votes

in the name of another, or under an assumed name, he shall forfeit the sum named in the preceding section, half to the use of the prosecutor, and half to the State, and be imprisoned not more than six months in jail.

erasing, or mutilating names on the check list, and for voting in the name of another. Ibid. § 58.

44. If any selectman or other officer of a city, town, or plantation, or any such officer chosen *pro tempore* wilfully neglects or refuses to perform the duties required by sections thirty-five, thirty-six and thirty-seven of chapter four of the revised statutes, on notice of the loss and destruction of any return therein described, he shall forfeit not less than one hundred, nor more than five hundred dollars.

Penalty for neglecting to supply lost return. Ibid. § 59.

45. Any such selectman or other officer, *permanent* or *pro tempore*, who in such case makes a false certificate and makes oath to its truth, shall suffer the punishment provided against the crime of perjury, and be disqualified from holding any office under the constitution and laws of the State for ten years.

Penalty for making false certificate. Ibid. § 60.

46. If a person, to whom the returns of votes of any city, town, or plantation, for governor, senators, or representatives in Congress, are entrusted by the clerk thereof to be forwarded to the office of the secretary of State, wilfully neglects to use all proper means for their delivery within the time required, he shall forfeit not less than one hundred, nor more than five hundred dollars, or be imprisoned in jail not less than two, nor more than six months.

Penalty for neglect of persons to whom returns are entrusted to deliver them. Ibid. § 61.

47. Every county attorney, who receives from the secretary of state a certificate that the return of the votes of any town, city, or plantation in his county, for governor, senators, or representatives in congress, has not been duly received at the secretary's office, shall immediately ascertain, so far as he can, by the default of what officer or person such neglect happened, and demand of him, if he finds such default wilful, or caused by culpable negligence, the sum thereby forfeited; and if it is not immediately paid, he shall prosecute such delinquent according to law.

County attorney to prosecute for wilful negligence in delivering returns. Ibid. § 62.

48. In no case,[11] except as in sections fifty-two and fifty-three, chapter four of Revised Statutes, shall any officer

[11] State *v.* Small, 10 Maine, 109, *supra*; Harlow *v.* Young, 37 Maine, 88.

Liability of town officers limited.
But neglect to be deemed willful, unless contrary is shown.
Ibid. § 63.

of a city, town or plantation, incur any punishment or penalty, or be liable in damages, by reason of his official acts or neglects, unless they are unreasonable, corrupt, or wilfully oppressive; but the neglect to prepare the list of voters; to deposit it in the town clerk's office; to post it up as required herein; to call town, city, or plantation meetings for elections; to cause returns of votes, or copies thereof, to be delivered into the office of the secretary of state, as required by the constitution and laws; or to make the records by law required, shall be deemed wiflul and unreasonable, unless the contrary is shown.

Punishment for misconduct of voters.
Ibid. § 64.

49. At any meeting for the election of any public officer,[12] where a list of voters is necessary, if any person willfully votes before the presiding officer has had an opportunity to find his name on said list, or knowing that it is not on it, or willfully gives any false answer or statement to the selectmen or other officers when previously preparing such list, or presiding at such meeting, in order that his name may be entered on such list, or his vote received; or casts more than one vote at one balloting; or is disorderly at such meeting, he shall forfeit, for each offence, not exceeding one hundred, nor less than ten dollars. If any officer of the militia parades his men, or exercises any military command on a day of election of a public officer, as described in section one hundred and two, of chapter ten of the revised statutes and not thereby excepted, or except in time of war or public danger, he shall, for each offence, forfeit not less than ten, nor more than three hundred dollars. The penalties in this section, may be recovered by indictment, half to the use of the State, and half to the use of the prosecutor.

Penalty of militia officers for parades on election days.
Ibid. § 65.

Penalty.
Ibid. § 66.

Punishment for bribery and corruption at elections.
Ibid. § 67, and 1881, c. 42.

50. If any person by bribery, menace or willful falsehood, or other corrupt means, directly or indirectly attempts to influence any voter of this state in giving his vote or ballot, or to induce him to withhold it, or disturbs or hinders him in the free exercise of his right of suffrage

[12] Fraudulent voting, &c. State *v.* Bailey, 21 Maine, 62; State *v.* Boyington, 56 Maine, 512; Commonwealth *v.* Bradford, 9 Met. 269; Commonwealth *v.* Silsby, 9 Mass. 417.

at any election held under the provisions of the constitution or of this chapter, or if any person shall receive or offer to receive a bribe for his vote as aforesaid, he shall be fined not more than five hundred dollars, or imprisoned not more than one year, and be ineligible to any office in this state for ten years.

Punishment for intentionally voting where not entitled.
R. S., c. 4, § 68.

51. If a person, at an election of state and county, or municipal officers, or of electors of president and vice-president, knowingly votes in any city, town, or plantation where he has no legal right to vote, he shall be punished by imprisonment in the county jail not less than three months, nor more than one year.

Betting on elections prohibited and punished.
Ibid. § 69.

52. No person[13] shall make any bet or wager upon the result of any election of persons to be voted for in this state for any office or place, in money or in any kind of property, real or personal, under penalty of forfeiting the money or property so bet or wagered, to the city, town or plantation in which he resides, or if he does not reside in this State, then to the city, town or plantation in which the bet or wager is made, to be recovered in an action on the case.

Mayor or treasurer to sue for penalty.
Ibid. § 70.

53. The mayor of the city, or the treasurer of the town or plantation entitled to such forfeiture, shall forthwith proceed to sue for, and recover it as soon as they have proper evidence of such betting or wagering.

Money paid on wager to be recovered by action on the case.
Ibid. § 71.

54. Any party to such bet or wager, who has paid over or conveyed to the winning party the money or property so bet or wagered, may recover it, or its value, in an action on the case.

Conveyances by reason of wager to be void.
Value forfeited to town or city.
Ibid. § 72.

55. All conveyances, by deed or otherwise, of any interest in real estate, made by reason of any such bet or wager, are absolutely void; the person making them, shall forfeit the full value of the interest so conveyed to the city, town or plantation entitled to the forfeiture for such betting or wagering, to be recovered as aforesaid.

See also § 31, of this chapter.

56. The several islands within the city of Portland, shall so far constitute two separate wards as to entitle the legal voters of each of said wards to choose a warden, ward clerk and one constable, who shall be residents on

[13] Wormell *v.* Eustis, 45 Maine, 357; Gilmore *v.* Woodcock, 69 Maine, 118; and 70 Maine, 494.

Islands of city of Portland to constitute two wards, as to election of certain officers.
What islands constitute the different wards.
1879, c. 97.
See also R. S., 1871, c. 4, §§ 39 and 41.

said islands and of their respective wards. The first of said wards shall comprise Long Island, Crotch Island, Hope Island, Jewell's Island and Little Chebeague Island, or such parts of said islands as are within the city of Portland, and the ward meetings of said first ward shall be holden on Long Island. The second of said wards shall comprise the remaining islands within the city of Portland, and the ward meetings of said second ward shall be holden on Peak's Island. The qualified electors of each of said wards may meet as provided in the thirty-ninth section of the fourth chapter of the Revised Statutes, and also for the choice of city officers, at the place designated, and may, on the day of election vote, for all officers named in the warrant calling the meeting.

Proceedings.
Ibid, § 42.

The warden thereof shall preside impartially at such meetings, receive the votes of all the qualified electors present, sort, count and declare them in open meeting and in the presence of the clerk, who shall make a list of the persons voted for, with the number of votes for each person against his name, and the officers respectively, and in open ward meeting, and in the presence of the warden, shall make a fair record thereof. A fair copy of this list shall be attested by the warden and clerk, sealed up in open meeting, and delivered to the clerk of ward number one in said Portland, within eighteen hours after closing the polls; and the votes thus thrown, shall be deemed as thrown in and belonging to the last mentioned ward.

See also § 31, of this chapter.

Mode of determining officers elected.
1880, c. 230, amending R. S., 1871, c. 78, § 5.
How notified.
How to ascertain highest number of votes.
To what officers applicable.
Attested copy of return.

57. The governor and council, on or before the first day of December in each year, shall open and compare the votes returned, and have the same tabulated, and may receive testimony on oath, to prove that the return from any town does not agree with the record of the vote of such town in the number of votes, or the names of the persons voted for, and to prove which of them is correct; and the return, when found to be erroneous, may be corrected by the record. No such correction can be made without application within twenty days after the returns are opened and tabulated, stating the error alleged, and reasonable notice thereof given to the person to be affected by such correction, and during said twenty days any person voted for, either personally, by or with coun-

sel, shall have the privilege of examining said returns in the presence of the governor and council, or either of them, or any member of the council. The persons having the highest number of votes, not exceeding the number to be chosen, shall be declared elected; and shall be notified thereof by the secretary of state, be sworn, and enter upon the discharge of official duties on the first day of January thereafter. If a number of persons, exceeding the number to be chosen, receive an equal number of votes, no one is elected. But, in order to ascertain what persons have received the highest number of votes, the governor and council shall count and declare for any person all votes intentionally cast for such person, although his name upon the ballot is misspelled or written with only the initial or initials of the christian name or names; and they may hear testimony upon oath, in relation to such votes, in order to get at the intention of the electors and decide accordingly. The provisions of this section shall be applied in determining the election of all county officers, and the provisions of said section five, so far as they relate to the examination and correction of returns, and to ascertaining for whom votes were intentionally cast, shall be applied in determining the election of representatives to congress, senators and representatives to the state legislature, and electors of president and vice-president of the United States. In all cases when a return is defective by reason of any informality, a duly attested copy of the record may be substituted therefor.

Ordinances.

1. The form of warrants for calling meetings of the citizens of the several wards, shall be as follows, viz:

Form of warrants of ward meetings. To conform to act of 1878, c. 73.

STATE OF MAINE.

CITY OF PORTLAND, ss.

To ——one of the constables of the said city of Portland,

GREETING:

In the name of the State of Maine, you are hereby required to warn and notify the inhabitants of Ward No. ——, in said City of Portland, qualified according to law, to meet at the Ward Room in said ward, on the first Mon-

day of March next, being the——day of said month, at ten o'clock in the forenoon, then and there to give in their votes for ———

The polls on such day of election to remain open until four o'clock in the afternoon, when they shall be closed.

You are also required to give notice to said inhabitants, that the Aldermen of said city will be in open session at the———, in City Building, from nine to twelve o'clock in the forenoon, and from two to five o'clock in the afternoon on each of the four secular days next preceding such day of election, for the purpose of receiving evidence of the qualification of voters whose names have not been entered on the lists of qualified voters, in and for the several Wards, and for correcting said lists.

Hereof fail not, and have you there then this warrant, with your doings thereon.

Given under our hands and seals, at the city of Portland, this——day of——, in the year of our Lord, one thousand eight hundred———.

MAYOR.
} Aldermen of
} the city of Portland.

To be served by constables and returned. Ibid.

2. All warrants for calling meetings of the citizens of the several wards which shall be issued by the mayor and aldermen, shall be served by any constable of the city, who shall make his return on the warrant, stating the manner of notice and the time it was given, and return the same to the wardens of the several wards in said city, on or before the time of meeting of the citizens of said wards, therein specified.

Form of warrant for general meetings. Ibid.

3. The form of warrants for calling meetings of the inhabitants of the said city of Portland, shall be as follows, to wit:

STATE OF MAINE.

[L. S.] CITY OF PORTLAND, ss.

To——one of the constables of the city of Portland,

GREETING:

Upon the requisition of sixty qualified voters of said city, you are hereby required, in the name of the State of

Maine, to warn and notify the inhabitants of said city of Portland qualified to vote in city affairs, to meet at —— in said city, on ——, the — day of ——, at —— o'clock in the —— noon, then and there to act upon the following articles, to wit: ———

Hereof fail not, and have you there then this warrant, with your doings thereon.

Given under our hands and seals, at the city of Portland, this —— day of ——, in the year of our Lord ——.

MAYOR.
} Aldermen of
} the city of Portland.

To be served by constables and returned. Ibid.

4. All warrants which shall be issued by the mayor and aldermen, for calling meetings of the inhabitants of the city, shall be served by any constable of the city, and returned to the mayor and aldermen on or before the meeting of the citizens therein specified.

Time of opening and closing the polls shall be fixed by the mayor and aldermen, and inserted in the warrant. Ibid.

5. It shall be the duty of the mayor and aldermen to fix the time when the poll shall close, as well as the time for opening thereof, in the election of all officers except ward officers, and insert the same in any warrant and notification to the inhabitants, of such election.

See CITY CHARTER, sections, 8, 11, 12, 13, 14, 15.

Evergreen Cemetery.

[SEE CEMETERIES.]

Ferries.

Statutes.

1. County commissioners; license ferries, establish tolls, take bond. Property to be appraised on removal of ferryman.
2. May establish them to be supported by towns; penalty for neglect.
3. Penalty for neglect to keep safe boat, and to give prompt attendance.
4. Person injured by neglect or default of ferryman may sue on his bond.
5. No ferry to be established within one mile of a steam or horse ferry.
6. Penalty for keeping a ferry, or transporting, contrary to law.
7. Ice to be leveled and way kept in repair in winter.
8. Penalty for neglect of it; liability for injuries.
9. Licensed ferrymen not to use steam or horse-boats.
10. At steam and horse ferries other boats may be used in times of danger.
11. Obstructions of ferry ways prohibited. Penalty.
12. Piers may be sunk at ferries to guide boats.
13. Portland and Cape Elizabeth ferry company. May hold real and personal property.
14. May establish ferry. Proviso.
15. Toll.
16. Time of running boats. Forfeiture. Liabilities.
17. Capital stock.

County commissioners may license ferries, establish tolls, take bond. R. S., 1871, c. 20, § 1. 42 Maine, 9.

1. County commissioners may license persons to keep ferries at such places and for such times, as are necessary, except where they are otherwise legally established; may establish tolls for the passage of persons and property; revoke such licenses at pleasure; and shall take from the person licensed, a bond to the treasurer of State, with sureties, for the faithful performance of his duties.

Property to be appraised on removal of a ferryman.

Whenever said commissioners remove a ferryman, they shall appraise the boat and other personal property used in running the ferry, at its fair value, and the person appointed shall purchase the same at said appraisal, if the person removed assents thereto.

They may establish ferries to be supported by towns; penalty for neglect. Ibid. § 2.

2. They may establish ferries at such times and places as are necessary, and fix their tolls. When no person is found to keep them therefor, the towns in which they are established, are to provide a person to be licensed to keep them, and are to pay the expenses, beyond the amount of tolls received, for maintaining them. When established between towns, they are to be maintained by them in such proportions as the commissioners order. For each month's neglect to maintain such ferry or its proportion thereof, a town forfeits forty dollars.

Penalty for neglect to keep safe boat, and for neglect of attendance. Ibid. § 3.

3. Every keeper of a ferry is to keep a suitable and safe boat, or boats, for use on the waters to be passed, and give prompt attendance for passage, according to the regulations established for the ferry. For neglecting to keep such boat, he forfeits twenty dollars, and for neglect of attendance, one dollar, to him who sues therefor in an action of debt; and is liable in an action on the case to the party injured for his damages.

A person injured by default of a ferryman may sue bond. Ibid. § 4.

4. Any one injured in his person or property by the negligence or default of a ferryman, may commence a suit on his bond, in which the proceedings are to be similar to those in actions on the bonds of sheriffs.

Ferry not within one mile of steam or horse ferry. Ibid. § 5.

5. When a ferry is established by the legislature to be passed by a steam or horse boat, no other ferry can be established on the same river within one mile above or below it.

6. A person, who keeps a ferry contrary to the provisions of sections one and two, or without authority trans-

Penalty for keeping a ferry or conveying passengers or property contrary to law. Ibid. § 6.

ports passengers or property across any licensed or established ferry for hire, forfeits four dollars for each day such ferry is kept, or for each time of transportation, and is also liable to the party injured and keeping the ferry at or near the place, for damages sustained by him, in an action on the case.[1]

Ice to be leveled and way kept in repair in winter. Ibid. § 7.

7 When tidal waters, over which ferries are established, become so frozen that travelers may pass on the ice, the keepers of them are to level the ice and clear and repair the passage way from day to day, so that the same may at all times be safe and convenient for travelers with teams, sleds, and sleighs. Such way for passage may be made from a public landing sufficiently near to be connected with the opposite ferry landing. The commissioners are to fix a reasonable compensation therefor, to be paid from the county treasury. Or they may contract with another person to perform such duties, and give notice thereof to the keeper of the ferry before the river is closed; and during the continuance of such contract the liabilities of the keeper are transferred to the person contracting.

Penalty for neglect and liability for injury. Ibid. § 8.

8. The ferryman, or person so contracting, forfeits ten dollars for each day's neglect to perform such duty, and is liable in an action on the case, to pay damages to any person injured thereby.

Licensed ferrymen not to use horse boats or steam boats. Ibid. § 9.

9. A licensed ferryman, who uses at his ferry a boat propelled by steam or horse power, forfeits his license, and is liable to pay the damages occasioned thereby to any person or corporation.

At horse and steam ferries other boats used in times of danger. Ibid. § 10.

10. Persons required to use, at a ferry, steam or horse boats, when the passage by them is dangerous, may use other safe boats.

Obstructions to ferries prohibited; penalty. Ibid. § 11.

11. Any person, who places a wier or other obstacle, or without necessity, anchors or places a raft, vessel, or water craft, so as to obstruct the ordinary passage way of any boat at a ferry licensed or established, forfeits twenty dollars to the use of the proprietor of the ferry, to be recovered in an action on the case; unless such obstruction was inadvertently made, and removed within thirty

[1] Ferries derive their power from their charters. Power discussed, Day *v.* Stetson, 8 Maine, 365; State *v.* Wilson, 42 Maine, 9.

minutes, if practicable, after notice given of its improper position, or unless it was occasioned by hauling into a wharf, pier, landing, or dock, without any unreasonable delay or wilful misconduct.

Piers may be sunk to guide boats at ferries. Ibid. § 12.

12. The proprietors[2] of a ferry, to guide their boats, may sink piers above and below and near their ferry ways, on each side of the river, not more than twelve feet in length or breadth, and not so sunk as to injure any wharf or landing, where vessels had previously taken or discharged freights.

Cape Elizabeth ferry. Act to incorporate. Private laws 1872, c. 124. Powers of Co. Real estate and personal property.

13. John B. Curtis, Benjamin Willard and James I. Libby, their associates, successors and assigns are hereby created a corporation by the name of the Portland and Cape Elizabeth Ferry Company, with power to prosecute and defend suits, to make by laws and regulations for the management of its affairs not repugnant to the laws of the State, to lease or purchase and hold such real and personal estate as may be necessary to effect the object of the corporation, and use and enjoy all the powers, rights and immunities incident to such corporations.

Ibid. § 2. May establish a ferry. Proviso.

14. Said corporation is hereby authorized to set up, establish and maintain a ferry across Fore river between Ferry village in Cape Elizabeth, and Portland, at such place as said corporation may select, provided the same shall be set up and established to start from, and land at such places, buildings or wharfs as said corporation may purchase or lease for the purposes with the rights to maintain, keep and run, suitable boat or boats for the safe and convenient transportation of passengers and freight.[3]

Ibid. § 3. Toll.

15. A toll is hereby granted and established for the benefit of said corporation as follows: for each foot passenger five cents, and for each hundred pounds of freight, or less, four cents; provided however, the rate of toll may at any time be modified by the legislature.

16. The time for running said boat or boats shall be from six o'clock in the forenoon to eight o'clock in the

[2] State *v.* Wilson, 42 Me. 9.

[3] Public highway to be constructed in Portland into tide waters. Ferry way.
Private Laws 1873, c. 375.
See Streets, § 15, *post*.

afternoon, from the first day of April to the first day of October; and from six and a half o'clock in the forenoon to seven o'clock in the afternoon from the first day of October to the first day of April, in each year. And if said corporation shall neglect to furnish suitable and proper attendance, and suitable, safe and proper boat or boats at any time within the hours prescribed for running the same for the transportation of passengers or freight as authorized by this act, said corporation shall forfeit and pay for each case of such neglect the sum of ten dollars, to be recovered in an action of the case by the person aggrieved thereby in any court of competent jurisdiction; said corporation shall also be liable in a like action to the party injured, for loss and damage occasioned by the neglect or want of proper care on the part of said corporation, its agents or servants.

Ibid. § 4. Time of running boats.

Forfeiture in case of neglect.

Liable for loss or damage.

Ibid. § 5.

17. The capital stock of said corporation shall be ten thousand dollars, divided into such number of shares as the corporation shall determine, with power to increase the capital from time to time by vote of two-thirds of the stockholders at a meeting held for that purpose, to twenty-five thousand dollars.

Capital stock.

§ § 6 and 7 of this charter are merely as to first meeting and approval.

Finance.[1]

CONSTITUTIONAL AMENDMENT.

1. Power to create municipal debt.

Statutes.

1. Power of Portland to create debt.
2. Not to apply to fund in trust, &c.
3. Jurisdiction of S. J. C.
4. Anthorized to purchase real and personal estate not exceeding two hundred thousand dollars.
5. School money, how paid.
6. For what purposes money may be raised by towns.
7. Town histories.
8. Doings made valid in certain cases.
9. Contracts made valid.
10. Unauthorized contracts may be made valid.

Ordinances.

1. Committee on accounts to be appointed. Duties.
2. City treasurer's duties.
3. Committee on accounts to audit the accounts of city treasurer and auditor.
4. City treasurer to give bond.
5. Financial year — accounts be made to the end of.
6. Committee on finance to be appointed. Duties.
7. City officers to pay over moneys to the treasurer.
8. Registered bonds.
9. Forms and regulations.
10. Denomination, five hundred dollars.
11. Loans.
12. Blanks and books.
13. Transfer.
14. Disposal.
15. Bonds sold for paying P. & O. assessment.

CONSTITUTIONAL AMENDMENT.

No city or town shall hereafter create any debt or liability, which, singly, or in the aggregate with previous

[1] see titles "Sinking Fund," "Railroad."

Power to create debt.
Amendment to Constitution, 1877, Feb. 9.

debts or liabilities, shall exceed five per centum of the last regular valuation of said city or town; provided, however, that the adoption of this article shall not be construed as applying to any fund received in trust by said city or town, nor to any loan for the purpose of renewing existing loans or for war or to temporary loans to be paid out of money raised by taxation during the year in which they are made.

Statutes.

Power of city of Portland to create debt limited to five per cent. of her valuation.

1. Neither the inhabitants of the city of Portland, nor the city council, nor any officer or officers thereof, shall hereafter create any debt or debts, liability or liabilities, on behalf of said city, which shall singly or in the aggregate with other debts and liabilities hereafter or heretofore created in behalf of said city, exceed five per cent. of the valuation of said city for the year in which it is proposed to creat said debt or liability, nor shall create such debt or liability so long as the aggregate debts and liabilities of said city exceed five per cent. as aforesaid, nor shall issue any notes, bonds, or any certificates or evidences of indebtedness, for any such debt or liability; nor shall the credit of said city be directly or indirectly loaned in any case, and no existing statute, whether public or private, shall be construed as vesting any authority to loan such credit, nor to create such debt or liability, or issue such bond, note, or other evidence of indebtedness, nor shall any statute, public or private, hereafter passed, be construed as vesting such authority, unless express reference is made therein to the provision of this act.

Private Laws 1877, c. 345.

Act went into effect March 15, 1877.

Not to apply to fund in trust, or to temporary loan for municipal purpose.

2. This act shall not apply to any fund which said city may receive in trust, nor to any loan for municipal purposes, for payment of which, provision is made by assessment of the amount in the municipal tax during the municipal year in which the same is incurred, nor to any loan issued for the purpose of renewing or paying the principal of existing loans or liabilities.

Ibid. § 2.

Jurisdiction of S. J. Court.
Ibid. § 3.

3. The supreme judicial court shall have jurisdiction in equity to prevent violation of this act, on application of any one or more taxable inhabitants of said city.

4. The city council of the city of Portland shall have the power to purchase and take, in the name of the city, real and personal property for municipal purposes, to an amount not exceeding two hundred thousand dollars in addition to that now held by the city.

City council authorized to purchase real and personal estate, not exceeding $200,000.

5. All moneys appropriated for the use and support of public schools in the city of Portland, shall be paid by the treasurer of the city, upon the account being approved by the mayor and committee of accounts for the city of Portland. The provisions of chapter one hundred and ninety-six of public laws of eighteen hundred and seventy-seven, shall not apply to the city of Portland.

Act 1875, c. 21.

School money, how paid.

Private Laws, 1879, c. 131.

6. The qualified voters[2] of a town, at a legal town-meeting, may raise such sums, as are necessary for the maintenance and support of schools and the poor; for making and repairing high ways, and town ways and bridges; for purchasing and fencing burying grounds; for purchasing or building and keeping in repair a hearse and house therefor, for the exclusive use of its citizens; and for other necessary town charges.

For what purposes money may be raised by towns.

R. S., 1871, c. 3. § 35.

7. Cities and towns may raise money for the purpose of procuring the writing and publication of their histories, and a sum not exceeding five thousand dollars in one town for the purpose of erecting a suitable monument in memory of the soldiers who sacrified their lives in defence of their country in the recent war.

Towns may procure town-histories.

Ibid. § 36.

Build soldiers' monuments, for not more than $5,000.

8. The past acts and doings of cities, towns and plantations, in offering, paying and contracting to pay, and in raising and providing means to pay expenses, for recruiting for their several quotas, commutations to drafted men, bounties to or for volunteers, drafted men or substitutes of drafted men or enrolled men, mustered into or enlisted for the military or naval service of the United States, are made valid, provided such acts and doings have been, at meetings legally called and held in

Doings of cities and towns made valid.

Ibid. 37.

[2] Baileyville *v.* Lowell, 20 Maine, 178; Frankfort *v.* Winterport, 54 Maine, 250; Opinion of Justices, 52 Maine, 595; Friend *v.* Gilbert, 108 Mass. 408; Minot *v.* W. Roxbury, 112 Mass., 1; Coolidge *v.* Brookline, 114 Mass. 592; as to power to aid in construction of railroads, see Title Railroads, and R. S. 1871, c. 51, §§ 80, 81, 82.

pursuance of warrants therefor; setting forth the purpose upon which such acts and doings were based. And all taxes assessed, contracts made and notes and orders given by municipal officers in pursuance of votes passed at such meetings, are also made valid.

Contracts made valid. Ibid. § 38.

9. All contracts made in pursuance of votes passed at such meetings, by such municipal officers, or their duly authorized agents, with any volunteer, drafted man, or substitute, or with third persons, corporations or associations for the purpose of providing means to pay commutations, bounties to volunteers, drafted men or substitutes are made valid.

Unauthorized contracts by municipal officers may be made valid. Ibid. § 39.

10. All contracts heretofore made by such municipal officers, or by third persons, in behalf of any city, town or plantation, but without previous authority therefor, to pay commutations, bounties to or for volunteers, drafted men or substitutes, actually in or enlisted for the military or naval service of the United States, may be ratified and made valid by any city, town or plantation at legal meetings thereof, called and notified as named in section thirty-seven, chapter three, of the Revised Statutes.

Ordinances.

Committee on accounts to be appointed. Duty. Revised Ord. '68, as amended by subsequent ordinances and city charter.

1. There shall be appointed annually, by the city council, a joint committee on accounts, to consist of one on the part of the board of mayor and aldermen, and two on the part of the common council, whose duty it shall be to carefully examine all claims and accounts against the city, when certified by the auditor.

City treasurer's duties. Ibid.

2. It shall be the duty of the city treasurer and collector to collect and receive all rents which may be due to the city, and under the direction of the mayor and aldermen, to seal and execute all leases of city lands or buildings. He shall also receive all fines and penalties which may be paid to him from time to time. He shall proceed without delay to collect all accounts which may be delivered to him for collection, and in any case in which he is unable to obtain a settlement of an account, he shall report the same to

the mayor and aldermen, and follow such directions as they may deem it for the interest of the city to prescribe.

Committee on accounts to audit the accounts of city treasurer and auditor.

3. It shall be the duty of the committee on accounts to audit the accounts of the city treasurer, and of the auditor, at the close of each financial year, and as much oftener as they may deem expedient; and for this purpose they shall have access to all books and vouchers in their possession or in the possession of the city clerk, or any other officer of the city, and they shall in every case report to the city council the result of their examination.

Ibid.

City treasurer to give bond.

4. The city treasurer and collector shall give bond, with sufficient sureties, to the satisfaction of the mayor and aldermen, for the faithful performance of the duties of the said office of the treasurer and collector, and that he will truly and justly account for all moneys that may come into his hands.

Ibid.

Financial year —accounts to be made to.

5. The city treasurer shall make up his annual accounts to the first day of April, and the financial year shall begin on the first day of April, and end on the last day of March in each year.

Ibid.

Committee on finance to be appointed.

6. There shall annually be appointed a joint committee on finance, to consist of the mayor and two aldermen, on the part of the board of mayor and aldermen, and three members of the common council, whose duty it shall be, under the direction of the city council, to negotiate all loans made on account of the city, and to consider and report on all subjects relating to the finances of the city.

Ibid.

Duties.

City officers to pay over moneys to the treasurer.

7. It shall be the duty of the city clerk, the city marshal, deputy marshals, weighers of hay, and other officers, of the city, authorized to collect moneys, to pay over to the city treasurer once in three months all moneys which they shall receive, belonging to the city.

Ibid.

REGISTERING OF BONDS.

8. Whenever the holder of any coupon bond of the city, heretofore or hereafter issued for municipal purposes, shall surrender the same with the unpaid coupons to the city treasurer for the purpose of having the same converted into a registered bond, it shall be the duty of the city treasurer to receive and cancel the same, and to issue to the person surrendering the same a certificate to be countersigned by the mayor, setting forth that such person is entitled to receive from the city, in accordance with a registered bond of the city for that purpose, a sum of money corresponding to the amount of such coupon bond surrendered, payable at the same time, and with interest at the same time and rate of payment, all payable at the office of the city treasurer, and such registered bond shall therefor be filled out by the city treasurer, signed and countersigned as above, and kept in suitable books of registry provided for that purpose, with a number and other necessary references corresponding to the number and description of the certificate issued. And the faith of the city is hereby pledged for the payment of all sums due upon such registered bonds, with interest according to their tenor, to the lawful holders of such certificate.

Registered bonds. Ord. Jan. 12, 1870.

9. The necessary forms for such registered bonds and certificates, and for the transfer of the same, and the necessary regulations for the payments of interest accuring thereon, and for preserving the evidences of the same, and for making and preserving the records of the transfers, shall be determined by the joint standing committee on finance, and the forms and regulations so determined shall be observed by the city treasurer.

Ibid. § 2. Forms and regulations.

10. All such registered bonds shall be of the denomination of five hundred dollars ($500) or any multiple thereof, and one certificate may issue for any

Ibid. § 3. Denomination $500.

number of coupon bonds of the same class surrendered.

11. Whenever the city council shall hereafter authorize any loan other than temporary loans, to be made for municipal purposes, the city treasurer shall be authorized, unless otherwise directed by the city council, to effect such loan or such part of the same as the joint standing committee on finance shall direct, upon registered bonds, and certificates issued therefor in like manner, and under such regulations as are prescribed in the first section for the registered bonds and certificates therein provided for. Ibid. § 4. Loans.

12. The city treasurer, under the direction of the committee on finance, is hereby authorized to procure suitable blanks and books necessary to carry this ordinance into effect; the expenditure incurred therefor shall be subject to the approval of the mayor, and upon such approval, may be allowed by the committee on accounts. Ibid. § 5. Blanks and books.

13. No such registered bonds shall be transferred except at the office of the treasurer, and no other transfer of the same shall be binding on the city. Ibid, § 6. Transfer.

14. Whenever it may be necessary to dispose of any registered bonds belonging to the sinking fund of the city, for the purpose of raising means for the payment of any of the city bonds or certificates matured or maturing, such bonds may be, by order of the city council, surrendered and corresponding coupon bonds issued therefor. Ibid. § 7. Dispose of same.

15. Any bonds of the State of Maine, owned by the city, may be sold, and the proceeds appropriated by order of the city council, to the payment of assessments on the city's subscription to the stock of the Portland and Ogdensburg Railroad Company. Bonds for payment by P. & O. assessment. Ord. 1870, April 18.

Fire Department.

Statutes.

1. Powers of fire department of Portland, in whom vested.
2. Towns may perscribe rules for care of engines, &c.
3. Officers chosen have powers of fire wards. Towns liable for acts of officers.
4. Engine men excused from jury service.
5. Duties of engine companies.
6. Negligent engine men. Discharge.
7. Fire wards in country towns.
8. Fire wards, duty of and of other officers at fires.
9. Fire wards, power of at fires,
10. Officers may demolish buildings, when.
11. Compensation for demolished buildings, when.
12. Larceny at fires.
13. Penalty for occupying tenement for sail making, &c., except where municipal officers direct.
14. Defective chimneys, &c., may be removed.
15. Lighted pipes, &c., in mills, &c.
16. Penalty for kindling fire on land without consent of owner.
17. Penalty for kindling fire with intent to injure another.
18. Lawful fires to be kindled at suitable time.
19. Regulations about gunpowder.
20. Damages recoverable by person injured by explosion.
21. Municipal officers may search for gunpowder.
22. Regulations in force till published.
23. Inn-keepers to provide means of escape from fires, when.
24. Time allowed; penalty for neglect.
25. Penalty for selling, giving, or firing fire-works without license.
26. Towns may prohibit burning of bricks, &c. Penalty.

Ordinances.

1. Water not to be taken from reservoirs.
2. Bonfires, &c., not to be made. Penalty.
3. Penalty for carrying uncovered fire in the streets.
4. Penalty for discharging fire-arms.
5. Penalty for erecting or using brick-kilns without license.
6. Penalty for false alarm of fire.

7. Penalty for removing fire-ladders from place of deposit.
8. Penalty for setting fire to chimneys, &c.
9. Penalty for persons wearing badges, &c., falsely representing themselves as members of the fire department.
10. Hydrants, used for extinguishing fires.
11. Penalty for running over hose.

FOR THE GOVERNMENT OF THE FIRE DEPARTMENT.

1. Fire department, how organized. Election.
2. Organization of board of engineers.
3. Powers of engineers.
4. Engineers to cause combustibles to be removed.
5. Engineers to demolish buildings at fires, when.
6. Engineers may suspend companies, &c., when.
7. Engine companies, how composed.
8. Chief engineer, his powers and duties.
9. City council may form engine, hook and ladder, and hose companies, &c.
10. Foremen and clerks of companies; how chosen. Companies may make rules.
11. Meetings of companies.
12. Fines for absence.
13. Pay of members of companies.
14. Fires in adjoining towns.
15. Foreman, duties of.
16. Clerk, duties of.
17. Enginemen, their election and duties.
18. Enginemen, their special duty to preserve engines, &c.
19. Badges.
20. Badges, penalty for false wearing of same.
21. Drivers, duty of,
22. Engineers to be obeyed.
23. Repeal of prior ordinances, except, &c.
24. Inspection.
25. Compensation.

RULES AND REGULATIONS OF ENGINEERS.

1. Orders of chief engineer, how given.
2. Duty of engineers.
3. Officers to report, on arrival at fire, for orders.
4. Of moving engines at fires.
5. Duties of foreman.
6. Same subject.
7. Absent members may be discharged, when.
8. Companies, &c., doing special duty.
9. Members leaving department, city property must be returned.
10. Dry hose.

11. Nominations.
12. Drivers shall not act as substitutes.
13. Rule for engine men.
14. Printed copy of rules for each member.
15. One line of hose to a post hydrant.
16. Corporation badge.
17. Badge not to be lent.
18. Lost badge.
19. Bad conduct of fireman. Report.
20. Substitutes.
21. Temporary new regulations.
22. Two men and driver to a hose carriage.

Statutes.

Powers of fire department, in whom vested. City charter, § 5.

1. All powers relating to the fire department are vested by the city charter, in the mayor and aldermen, and common council of the city of Portland, to be exercised by concurrent vote, each board to have a negative on the other.

Towns may prescribe rules for care and management of fire engines and apparatus. R. S., 1871, c. 26, § 1. —for employment of men. —for appointment of officers.

2. Any town, corporation or individuals providing fire engines, hose, ladders, or other apparatus for the extinguishment of fires, or the preservation of life or property from destruction at fires, may by ordinances or by-laws, prescribe rules and regulations for the care and management thereof, for the employment and compensation of men, not exceeding sixty to each engine, whether engine men or other persons, for the appointment of officers to govern them when on duty and take charge of such apparatus, and may prescribe their style, rank, powers and duties.

Officers so chosen have powers of fire wards. Ibid. § 2.

Towns liable for acts of.

3. The engineers, or other officers chosen by any town under the provisions of any ordinance or by-law, shall exercise in addition to the powers thereby conferred, all the powers and duties of fire wards as prescribed in chapter twenty-six R. S., of 1871, unless restricted by the ordinance or by-law under which they are chosen; and such towns shall be responsible for the acts of their said officers, as they are for the acts or orders of fire wards in similar cases; and such firemen and enginemen, so employed, shall have all the powers and privileges, and be subject to all the duties and liabilities of engine men, as prescribed in said chapter twenty-six of the Revised Statutes.

Powers, privileges and duties of men so employed.

4. Such engine men shall be excused from serving as jurors in any court, unless their towns otherwise decide; continue in office during the pleasure of the municipal officers; meet annually to elect such officers as are deemed necessary to give efficiency to their operations; establish such rules and regulations, respecting their duty, as are approved by said municipal officers and not repugnant to the laws of the State, and affix penalties to be recovered by their clerk not exceeding six dollars for any one offence.

Engine men excused from serving as jurors. Ibid. § 3.

5. Companies of engine men shall meet once every month, and oftener if necessary, for the purpose of examining the state of their engines and the appendages thereof; and by night or by day, without delay, under the direction of the firewards of the town, they shall use their best endeavors to extinguish any fire therein, or in the immediate vicinity thereof, that comes to their knowledge.

Duties of engine companies. Ibid. § 4.

6. When any engine man or any member of a company organized under special laws is negligent in the discharge of his duties, in the opinion of the municipal officers, on proof thereof they shall discharge him from the company, and appoint some other person in his stead, and they may select from the engine men any number for each engine in said town, who shall, under the direction of the fire wards, attend fires therein with axes, fire hooks, fire sails and ladders, and perform such further duty as said officers from time to time prescribe.[1]

Discharge of negligent engine men, and selection of engine men for other duties at fires. Ibid. § 5.

7. Each town, at its annual meeting, may elect as many fire wards as are deemed necessary; and each person so chosen shall be notified in three days, and shall enter his acceptance or refusal of the office, with the town clerk, within three days after such notice, on penalty of ten dollars, unless excused by the town; and if excused the town shall elect another in his place.

Election of fire wards. Notice. Penalty for not accepting. Ibid. § 6.

8. When a fire breaks out in any town, the fire wards shall immediately attend at the place with their badges of office; and when there, any three of them may direct any building to be pulled down or demolished, that they

Duty of fire wards and other officers at fires. Ibid. § 7.

[1] As to obstructions caused on street by firemen, see Davis *v.* Winslow, 51 Maine, 264.

judge necessary to prevent the spread of the fire; but in their absence the major part of the municipal or any two civil or military officers present, shall, in the order they are named, have the same power.[2]

Power of fire wards at fires.

9. During the continuance of any fire, said fire wards or other officers may require assistance in extinguishing the fire and removing merchandise and furniture; appoint guards to secure the same, and aid in pulling down or demolishing buildings and suppressing disorder and tumult; and generally direct all operations to prevent further destruction or damage; and any person refusing to obey their orders shall forfeit the sum of ten dollars.

Penalty for refusing to obey. Ibid. § 8.

Officers appointed under special laws, may demolish buildings, when. Ibid. § 9.

10. The chief engineer, engineers, fire wards, and other officers appointed for particular localities under the provisions of special laws, shall have the same power as to pulling down or demolishing any building to prevent the spreading of fires, and as to other things affecting the extinguishment thereof, as fire wards now have by law; and the town to which they belong shall be liable to pay such compensation for damages consequent upon their acts, as other towns are liable to pay for similar damages; and the members of the fire department in such localities shall enjoy all the privileges, and be liable to all the duties of other firemen in the State; but nothing herein shall be construed to control the manner of their election.

Compensation for building demolished. Ibid. § 10, 1871, c. 207. Recovery, by action on the case.

11. If the pulling down or demolishing any building, except that in which the fire originated, is the means of stopping the fire, or if the fire is stopped before it comes to the same, then the owner of such building shall be entitled to a reasonable compensation therefor from the town, to be recovered in a special action on the case.[3]

Plundering at fires declared larceny.

12. If any person steals, carries away, or conceals any property not his own, at a fire, or exposed by reason thereof, and does not give notice of it to the owner or one

[2] Power of one of municipal officers to direct building to be pulled down. Frankfort *v.* County Commissioners, 40 Maine, 389. Whole question fully discussed by Judge Clifford in Bowditch *v.* Boston, Circuit Court, U. S. printed in full in Boston Daily Advertiser, September 4, 1876.

[3] Under a similar statute in Massachusetts it is held that a city is not liable for a personal injury resulting from the negligence of officers and members of the fire department in performing their duties. Fisher *v.* Boston, 104 Mass. 87.

of the fire wards, he shall be deemed guilty of larceny and punished accordingly. R. S., 1871, c. 26, § 15.

13. No person shall occupy any tenement, in any maritime town for the business of a sail maker, rigger, or keeper of a livery stable, except where the municipal officers direct; and any person who offends against this section, shall forfeit ten dollars a month during the continuance of such occupancy, with costs.

Penalty for occupying tenement for sail maker, rigger or livery stable, except as municipal officers direct. Ibid. § 16.

14. When a chimney, stove, stove pipe, oven, furnace, boiler, or appurtenances thereto are defective, out of repair, or so placed in any building as to endanger it or any other building by communicating fire thereto, the municipal officers on complaint of any fire ward, or other citizen, being satisfied by examination or other proof that such complaint is well founded, shall give written notice to the owner or occupier of such building, and if he unnecessarily neglects for three days to remove or repair the same effectually, he shall forfeit not less than ten, nor more than one hundred dollars.

Municipal officers to direct defective chimneys to be removed or repaired, under a penalty. Ibid. § 17.

15. No person shall enter any mill, factory, machine shop, ship yard, covered bridge, stable or other building, having with him a lighted pipe or cigar, or shall light or smoke any pipe or cigar therein, under a penalty of five dollars, if a notice in plain, legible characters is kept up in a conspicuous position over or near each principal entrance to such building or place, that no smoking is allowed therein; and if any person defaces, removes, or destroyes any such notice, he shall forfeit ten dollars.

Penalty for lighting or smoking pipe or cigar in mills, &c. Ibid. § 18.

16. If any person kindles a fire by the use of fire arms in hunting or fishing, or by any other means, on land not his own, without consent of the owner, he shall forfeit ten dollars; and if such fire spreads and does any damage to the property of others, he shall forfeit a sum not less than ten, nor more than five hundred dollars and costs, according to the aggravation of the offense; and in either case, shall stand committed till the fine and costs are paid.

Penalty for kindling fire on land without consent of owner, &c. Ibid. § 19.

17. If any person with intent to injure another, kindles or causes to be kindled a fire on his own or another's land and thereby the property of any other person is

Penalty for kindling fire with intent to injure another, &c. Ibid. § 20.

injured or destroyed, he shall be punished by a fine of not less than twenty, nor more than one thousand dollars, or by imprisonment not less than three months, nor more than three years, according to the aggravation of the offense.

Lawful fires to be kindled at suitable time, &c. Ibid. § 21.

18. Whoever for a lawful purpose kindles a fire on his own land, shall do so at a suitable time and in a careful and prudent manner; and shall be liable, in an action on the case, to any person injured by his failure to comply with this provision.

Municipal officers to make regulations respecting gunpowder, explosive oils and substances. R. S., 1871, c. 26, § 24. See also R. S., c. 17, § 8. R. S., 1871, c. 39, § 31; 1877, c. 219. Penalty.

19. In every town,[4] the municipal officers may make regulations, in conformity to which shall be kept in the town or transported from place to place all gunpowder, petroleum, coal oils, burning fluids, naphtha, benzine and all explosive and illuminating substances which such officers shall adjudge dangerous to the lives or safety of citizens; and no person shall keep any of said articles in any other quantity or manner than is prescribed in such regulations, under a penalty of not less than twenty nor more than one hundred dollars for each offence; and all such articles may be seized by any of said officers as forfeited; and within twenty days after such seizure, be libelled according to law.[5]

Persons injured by explosion may recover damages. R. S., 1871, c. 26, § 25.

20. A person injured by the explosion of such articles in possession of any person contrary to the regulations established as aforesaid may have an action for damages against such possessor, or against the owner thereof, if conusant of such neglect.

Power of municipal officer to search for gunpowder. Ibid. § 26.

21. Any municipal officer, with a lawful search warrant, may enter any building or other place in his town to search for such articles supposed to be concealed there contrary to law.

Regulations not be in force until published.

22. The rules and regulations, established in any town according to the twenty-fourth section of chapter 26, R. S., shall not be in force till they have been published three weeks successively in a newspaper in the county, or

[4] See R. S., 1871, c. 26, § 23. Burden on plaintiff to show neglect. The following cases discuss the whole question embraced in above sections: Bachelder *v.* Heagan, 18 Maine, 32; Hewey *v.* Nourse, 54 Maine, 256; Sturgis *v.* Robbins, 62 Maine, 289.

[5] See title "Gunpowder."

by posting up attested copies of them in three public places in such town. The penalties provided for in this chapter may be recovered by complaint, indictment, or action of debt in any court of competent jurisdiction, one-half to the use of the town where the offence is committed, and other half to the use of the person prosecuting therefor.

See Gunpowder, next chapter.
Ibid. § 27.

Penalties, how recovered and appropriated.
Ibid. § 28.

23. The municipal officers may require the owner or keeper of any public house, where travellers are lodged, to provide suitable and sufficient ladders and fire escapes from the different stories of such house, easily accessible to each lodger in case of fire.

Innkeepers to provide means of escape from fires, when required.
R. S., 1871, c. 27, § 6.

24. If such officers give notice to any such owner, or keeper, to provide such ladders and fire escapes, sixty days shall be allowed to provide the same; and any owner or keeper who neglects to comply with such requirement within sixty days after notice from such officers, shall forfeit not less than fifty nor more than three hundred dollars for each month he so neglects, to be recovered in the name and to the use of such town, in an action of debt.

Time allowed.
Ibid. § 7.

Penalty for neglect.

25. Whoever sells, offers for sale, or gives away any crackers, squibs, rockets, or other fire works, or fires or throws the same in any town, without the license of the municipal officers thereof, shall be punished by fine not exceeding ten dollars, to the use of such town.

Penalty for selling, giving away, or firing fire works without license.
R. S., 1871, c. 128, § 2.

26. A town, at its annual meeting, may prohibit the burning of bricks, or the erecting of brick kilns within such parts thereof as they deem for the safety of the citizens or their property. And if any person, by himself or others, violates such prohibition, the municipal officers shall cause said bricks or brick kiln to be forthwith removed, at the expense of the owner thereof; and the offender shall be liable to a fine not exceeding two hundred dollars to the use of said town. And if said bricks or brick kiln are not removed before a conviction the court may issue a warrant for the removal thereof, or stay it as hereafter provided, in chapter 17, R. S., 1871.

Burning bricks in parts of a town prohibited by vote; nuisances.
R. S., 1871, c. 17, § 9.

Ordinances.

GENERAL PROVISIONS.

Water not to be taken from reservoirs.

Rev. Ord. 1868.

1. If any person shall take any water from any reservoir or well where there is no pump, belonging to the city, for any purpose whatever, except for the extinguishment of fires or the use of the fire department, without first having obtained permission in writing from the mayor, he shall pay for each offense not less than five nor more than twenty dollars.

Ibid.

No person, when authorized by the mayor and aldermen to encumber any street with materials for building, or under any circumstances, shall deposit any such materials or rubbish of any kind upon any city reservoir, or in any such manner as to interfere with the convenient use of such reservoir, under a penalty of not less than twenty dollars nor exceeding fifty dollars for each offense. If any such reservoir shall be so obstructed, the chief engineer shall at once cause the obstructions to be removed at the expense of the person or persons making such obstructions.

Bonfires, &c. not to be made.

Rev. Ord.

Penalty.

Ibid.

2. If any person shall make any bonfire, or other fire in any of the streets, squares, commons, lanes, or alleys, or on any wharf within the city, without the license of the mayor and aldermen, he shall be punished by a fine not exceeding twenty dollars.

Penalty for carrying fire, except, &c.

Ibid.

3. No person shall carry fire from any house or place to any other house or place in the city, except in some covered pan or vessel, so as to secure the fire from wind and from being scattered by the way, under a penalty of not less than three dollars for each offense.

Penalty for discharging firearms.

Proviso.

Ibid.

4. No person shall fire or discharge any gun, fowling piece, or fire arms within the limits of the city of Portland under a penalty for every such offense of not less than one nor more than twenty dollars; *provided*, however, that this section shall not apply to the use of such weapons at any military exercise or review,

or in the lawful defense of the person, family, or property of any citizen.

Penalty for erecting or using brick kilns without license. Ibid.

5. No person shall erect, make, or fire, or cause to be erected, made, or fired, within any part of the city, any brick kiln or lime kiln, without license of mayor in writing, designating the place of such kiln, under a penalty of not less than five nor more than twenty dollars, and a like sum for every week he shall continue such kiln, after notice to remove the same.

Penalty for false alarms. Ibid.

6. If any person shall wilfully or maliciously give, or cause to be given, a false alarm or cry of fire by outcry or ringing an alarm bell, or striking an alarm at any box of the fire telegraph, he shall pay for each offense a penalty not less than twenty nor more than fifty dollars.

Penalty for removing ladders from places of deposit, except, &c. Ord. 1868.

7. If any person shall remove any ladder provided by the city to be used at fires, from the place of deposit, for any purpose but that of assisting in the extinguishment of fire, such person shall pay for each offense a sum not less than five nor more than ten dollars.

Burning chimneys, &c.

8. If any chimney, stove-pipe, or flue shall take or be set on fire, the owner or occupant of the building or tenement to which such chimney, stove-pipe, or flue appertains, shall forfeit and pay the penalty of two dollars for each offense; *provided*, however, that any person may lawfully burn out or set fire to his chimney, stove-pipe, or flue, at any time between sunrise and noon, if the roofs of his own, and the buildings contiguous are thoroughly wet with rain, or covered with snow.

Proviso. Ibid.

Persons not members of department prohibited from wearing badges or insignia. Penalty for so doing. Ord. July 30, 1858, § 5. Rev. Ord. 1868.

9. If any person not a member of the fire department shall, when the department is on duty, wear any badge or other insignia, representing himself as a member of the fire department, he shall, upon complaint of any engineer or officer of the fire department, pay a penalty of not less than two nor more than five dollars for each offense.

Hydrants used only for extinguishment of fires. Ord. Oct. 13, 1870.

10. That hydrants shall be used only for the extinguishment of fires, except by the written permission of the mayor, or the chief engineer of the fire department. Any person violating this ordinance shall be liable to a penalty not exceeding twenty dollars.

Driver or owner of vehicle running over hose of fire department subject to prosecution. Ord. Aug. 29, 1873.

11. If any loaded wagon, cart, street rail car, or other vehicle be driven over the hose belonging to the fire department of the city of Portland, laid in the streets at the occurrence of any fire in the city, or at any alarm of fire, the driver or owner or owners of such vehicles shall be subject to prosecution before the municipal court of said city; and upon conviction, shall be fined in any sum not exceeding ten dollars for the first offense; and upon any subsequent conviction for the same offense shall be subject to a fine of not more than fifty dollars, at the discretion of the court, with costs of prosecution.

FOR THE GOVERNMENT OF THE FIRE DEPARTMENT.

Fire department, how organized.

1. The fire department shall consist of a chief engineer, four assistant engineers, and as many firemen, to be divided into companies, as the city council shall, from time to time deem expedient. And the election of said engineers shall take place on the second Monday in March annually; (but vacancies may be filled at any time); and the said chief and other engineers shall, on their appointment, receive a written or printed certificate or warrant in the following words, viz:

Election. Ord. July 2, 1872.

"This certifies, that ——— ——— is appointed an an engineer (or chief engineer); of the fire department of the city of Portland, and is clothed with all the powers, and entitled to all the immunities belonging to said office.

Rank of engineers, how determined.

Given under my hand this---day of---A. D. 18

——— ——— Mayor.

——— ——— City Clerk."

The respective rank of the engineers shall be determined by the city council; and the city council

may at any time remove from office the chief engineer, or any of the other engineers, and may discharge all of them, if the interests of the city require such removal or discharge.

Organization of board of engineers. Ibid. § 2.

2. The engineers so appointed shall meet and organize; a majority shall form a quorum; in the absence of the chief, the engineer next in rank present, shall be the presiding officer, (and shall at all other times in his absence perform his duties.) They may appoint a secretary and other officers, and make such rules and regulations for their own government as they may deem expedient, subject to the approval of the city council.

Power of engineers.

3. The engineers shall, at all times, have the superintendence and control of all buildings, furniture and apparatus used for the purposes of the department, over the officers and members of the several companies attached to the department, and over all persons present at fires. And they may make such rules and regulations for the government of the department, and for the extinguishment of fires as they shall deem expedient; the same not being repugnant to the laws of the State, and being subject to the approval of the city council.

To cause combustibles to be removed. Ibid. § 4.

4. It shall be the duty of the engineers, at such times as they may deem expedient to examine or cause to be examined, premises where fire is at any time used, and where danger is apprehended therefrom; to examine into all places where shavings or combustible materials, or where ashes may be collected or deposited, and to direct such alterations, repairs, or removal to be made in such case as may be required, whenever in the opinion of any two of the engineers they may be considered dangerous to the security of the city from fire. And in case of the neglect or refusal of the owner or occupant of such building to make, or commence to make such alteration, repair,

or removal, within forty-eight hours after notice, said engineers may cause the same to be done at the expense of said owner or occupant; and if such owner or occupant shall neglect or refuse to pay such expense on demand of said engineers, he or she shall forfeit and pay not less than one or more than thirty dollars, to be determined by the city council. And for such services the engineers shall receive such compensation as the city council may direct.

To demolish buildings at fires, when. Ibid. § 5.

5. Whenever it shall be determined at any fire, by any three or more engineers, one of whom shall be the chief engineer (if present or in his absence, the engineer next in rank who may be present), or a majority of any greater number who may be present at such consultation, to be necessary to pull down or otherwise demolish any building, the same may be done by their joint orders. And they shall have the sole and absolute control of all streets, lanes, sidewalks and squares in the vicinity of such fire; and may close up or exclude persons or vehicles from passage through such places, for such length of time as may be necessary for the preservation of order and the extinguishment of fires.

Board of engineers may suspend companies and officers for improper conduct. Ibid. § 6.

6. A majority of the board of engineers shall have full power to suspend from duty any company that shall wilfully neglect or refuse to perform their duty, or shall be guilty of disorderly conduct, or of disobedience to the orders of either of the engineers; or for violation of any of the rules and regulations of the department. They shall also have full power at any time to suspend (for sufficient cause) any officer or member of the department; and whenever a company, officer or member of the department shall be thus suspended, they shall report the facts of the case to the city council for final action, unless they shall have reinstated such company, officer or member prior to the next meeting of the city council.

7. Engine companies shall consist of a foreman, clerk, engineman, fireman, and as many hosemen as the city council and board of engineers shall deem sufficient. And hook and ladder and hose companies shall consist of a foreman, clerk and steward, and as many hook and ladder men and hosemen as the city council and board of engineers shall deem sufficient. Engine company, how composed.

8. The chief engineer shall have control of all the engineers and other persons attached to the fire department; and shall direct all proper measures for the extinguishment of fires, protection of property, preservation of order and observance of the rules and companies attached thereto, as often as circumstances may render it expedient, or whenever directed by the city council or the committe on fire department; and annually to report the same to the city council, and oftener if thereto requested. Also to cause a full description of the same, together with the name and age of the officers and members of the department, to be published annually, in such manner as the city council shall direct. And whenever the apparatus or hydrants used by the department require repairs, additions or alterations, the chief engineer, under the direction of the committee on fire department shall cause the same to be made; and annually to report an account of the loss by fires, as near as can be ascertained, together with the names of the owners and occupants. He shall have the control of all reservoirs and superintend the construction and repairs of the same under the direction of the committee on fire department, and visit the stores or shops of all licensed dealers in gun powder, at such times as he may deem expedient, to see that the rules and regulations established by the mayor and aldermen in relation to gun powder are complied with, and and to prosecute all Ibid. § 7. Power and duties of chief engineer. Ibid. § 8.

violations of the same in accordance with section eleven of said rules and regulations.

City council may form engine, hook and ladder, and hose companies, &c. Ibid. § 19.

9. As many engine, hook and ladder and hose companies shall, from time to time, be formed by the city council as they may deem expedient. The selection of members and enginemen for new companies to be made by the board of engineers, subject to the approval of the city council. And no person under the age of twenty-one years shall be admitted a member of the department.

Foreman and clerk, how chosen.

Ibid. § 10.

10. The foreman and clerk as provided for in section seven, shall be nominated by the members of the several companies, at meetings held on the first Monday of January annually, or at an adjournment of the same, (to be held within one week of the annual meeting), and their names sent to the board of engineers; and being approved by them shall be sent to the city council for their approval. If approved, they shall each receive a certificate of appointment, signed by the aforesaid, and any company failing to nominate officers at their annual meeting, or an adjournment thereof, the board of engineers shall appoint such officers as they may deem expedient, subject to the approval of the city council. The several companies may make rules and regulations for the internal government of their companies, subject to the approval of the board of engineers; a copy of which shall be deposited with said board.

Companies may make rules, &c.

Monthly and other meetings of companies. Ibid. § 11.

11. On the first Monday evening of every month, (and no oftener except by order or permission of the chief, or board of engineers, or as provided in section ten), the companies shall meet for the transaction of business; and whenever the chief or board of engineers shall consider it necessary, the companies shall meet for the purpose of working their respective apparatus, and in no case shall buildings used by them be occupied as places of general resort or rendezvous.

12. The companies respectively shall charge to members a fine of fifty cents for non-attendance at any fire, and fifteen cents for non-attendance at any meeting of the company; and said fines shall be deducted by the city treasurer from the pay of each member and refunded to the several companies. Fines for absence. Ibid. § 12.

13. There shall be paid, semi-annually, in July and January, to each member of the respective companies, (except enginemen who may be paid oftener if expedient), such sums as the city council may, from time to time, determine. And in case of the temporary absence of any member from the city, or inabililty to perform his duties in consequence of sickness, he shall provide a substitute, who shall be at least twenty-one years of age, whose name he shall return to the foreman of the company, who shall present the same to one of the board of engineers for approval; failing in which, he shall be subject to all deductions that may accrue for his absence. Pay of members of companies. Ibid. § 13,

14. When a fire occurs in any of the adjoining towns, not more than one engine shall be allowed by the chief engineer to go more than one half mile beyond the limits of the city, but when a fire occurs within the above named limits, the chief engineer shall have discretionary power to send two engines. Fires in adjoining towns. Ibid. § 14.

15. The foreman shall certify to the correctness of the pay rolls, and keep, or cause to be kept, by the clerks of their respective companies, fair and exact rolls, specifying the time of the admission and discharge of each member; an account of all city property entrusted to their care, and fair records of the proceedings of the companies, in a book provided for that purpose by the city; which rolls or record books are always to be subject to the order of the board of engineers. Duties of foremen. Ibid. § 15.

16. It shall be the duty of the clerks of each of the companies to report to the board of engineers, Duties of clerks.

immediately after the annual meeting, the names of the newly nominated officers, also to return to the board of engineers, on the first day of July and January, a true and accurate list of the members of their respective companies, the length of time each has served; if he had a substitute, and how often; together with the amount of fines (if any), which are due from each member, and these returns, if approved by the board of engineers, shall be transmitted by them to the city treasurer. They shall also, within seven days after their monthly meetings, send to the board of engineers, the name of every person admitted to their respective companies at said meetings, and these persons, if approved, shall sign the following statement:

Ibid. § 16.

"The undersigned having been appointed members of the Portland Fire Department, hereby signify our agreement to abide by all the ordinances and rules and regulations of the city council and board of engineers. And any officer or member who shall neglect or refuse to sign the same, shall not be a member of said company, or entitled to any compensation whatever."

Election of enginemen.

17. The enginemen shall be elected annually by the city council, on the second Monday in March, (but vacancies may be filled at any time). They shall, at all times be in or about the engine house, and have charge of the engines, and all other city property committed to their care, and be held strictly responsible for its good condition for immediate service. They shall keep the engines and houses clean, and in good order; and perform all such other duties as may be required of them by the chief engineer or committee of the fire department. They shall also have the appointing of firemen from their companies, whose duty it shall be to assist them in the working of the engines, and to perform such other duties as may be required of them.

Their duties. Ibid. § 17.

18. It shall be the special duty of the enginemen to preserve their engines from injury as much as pos-

sible, to expose them to no unnecessary hazard, to cause them to be worked with judgment and skill, and not subject them to harsh treatment.

Their special duty to preserve engines from injury. Ibid. § 18.

19. Each member of the Portland Fire Department, shall wear when on duty, such badge or insignia as may be furnished by the board of engineers, and any member of the department, not complying with this regulation, shall not be considered or recognized as a member of the fire department.

Badge. Ibid. § 19.

20. If any person not a member of the fire department shall, when the department is on duty, wear any badge or other insignia, representing himself as a member of the fire department, he shall, upon the complaint of any engineer, or officer of the fire department, pay a penalty of not less than two, or more than five dollars for each offense.

Penalty for wearing badge when not member. Ibid. § 20.

21. The drivers attached to the engines and other apparatus connected with the fire department, when on duty, shall obey the orders of the chief and assistant engineers, foreman and engineman, and comply strictly with the rules and regulations and directions of the board of engineers. It shall also be their duty to see that the horses employed for the purpose of hauling the apparatus be in harness and ready for immediate use. And it shall be the duty of the chief engineer to report to the mayor and aldermen any violation of this section.

Drivers, duty of. Ibid. § 21.

22. All persons are hereby enjoined to obey the directions of any engineer, given at any fire, and to render their services if required by any engineer, under a penalty of not less than two nor more than twenty dollars. And it shall be the duty of the chief and other engineers to report to the city council the name of every person liable to the penalties provided by this section.

Engineer to be obeyed. Ibid. § 22.

23. All ordinances, rules and regulations (or amendments thereto) relating to the fire department, ap-

Repeal of old ordinance.

Ibid. § 23.

proved prior to the passage of this ordinance (except "an ordinance fixing the compensation of the officers and members of the fire department," approved June 13th, 1870) and inconsistent herewith, are hereby repealed; and this ordinance shall take effect and be in force from and after its approval by the mayor.

Inspection provided for. Ord. June 20, 1880.

24. That the board of engineers, and committee on fire department, be required twice in each municipal year, to hold an inspection of each engine company and its apparatus; and also an inspection twice during said year of each hook and ladder company and their trucks, and report any want of efficiency that, in their opinion, may exist, to the city council.

Compensation of officers and members. Ordinance 1873, April 15.

25. The annual compensation of the officers and members of the several fire engines and hook and ladder companies, shall be as follows, viz: To the foreman of each company seventy-five dollars; to the clerk of each company seventy-five dollars; to the firemen of each fire engine seventy-five dollars; and to the steward of each hook and ladder company seventy-five dollars; to each member of the respective companies other than the officers aforesaid, not exceeding eleven for each steam fire engine, and seventeen for each hook and ladder company, sixty-six dollars, and the same to be in full for all services as members of the fire department, and in full for reeling hose, and to cover all claims for clothing heretofore asked to be furnished by the city.

Rules and Regulations,

OF THE BOARD OF ENGINEERS, ADOPTED BY THE CITY COUNCIL JUNE 11, 1872.

ARTICLE 1. The orders of the chief engineer to the several companies of the department, will be communicated to the commanding officers (if convenient), who shall render prompt obedience thereto. When an engineer is charged with an order for any company, he will call the number in a distinct voice, which shall be responded to by any officer present, who shall immediately obey such order, without waiting to communicate with his superior, unless it can be done without delay. All members shall obey any order from an engineer.

Orders of chief engineer, how given.

ARTICLE 2. The engineers are to keep a watchful eye upon all parts of the fire and report to the chief immediately all changes in the aspect of the conflagration, and these reports shall be as definite as possible, and the facts upon which they are supposed to be founded, should always be well ascertained. For these purposes the chief of the department will station himself at some point where the scene of operations can be overlooked, which shall be designated in the night time by a red signal lantern. It will in all cases be considered the duty of the assistant engineers to answer promptly the call of the chief engineer. And in case of disturbance at a fire, by any rude or riotous person, any engineer who may observe it shall order the offender into custody of the police, to be proceeded against by law.

Duty of engineers.

ARTICLE 3. In case of fire not more than one line of hose shall be run out without permission from an engineer, and when the hose has been extended the officer in charge shall station men along the lines to protect them. The officer in charge of the several

Officers to report on arrival at fire for orders.

companies, immediately on their arrival at a fire shall report themselves, with the station of their apparatus, to the chief engineer, or his assistants. Those engines not immediately wanted will take convenient positions, their companies remaining by them under the direction of one of their officers, while the officer in command of such engine will report to the chief and remain there for orders.

Of moving engines at fire.

ARTICLE 4. When in the progress of a fire it becomes necessary to move any engine, the movement will always be executed with as much expedition as possible. The companies so changing will use the same hose unless otherwise ordered by an engineer, and the hosemen will hold themselves in readiness to render any assistance required of them by an engineer. No company attached to the department shall leave any fire, or take the apparatus of which they have charge therefrom without the order or permission of the chief engineer.

Duties of foreman.

ARTICLE 5. The foreman shall preside at all meetings of the company, and at fires or alarms have direction of the apparatus and all persons attached to the same. In his absence his duties shall be performed by the clerk. It shall also be the duty of the foreman to preserve order and discipline in his company, and require and enforce a strict compliance with the ordinances, rules and regulations, and the orders of the engineers, and at the annual meeting appoint four pipemen and four suction hosemen, who, after putting their hose in working order, shall assist the leading hosemen in the discharge of their duties.

Duties of foreman of hook and ladder and hose companies.

ARTICLE 6. It shall be the duty of the foremen of the hook and ladder and hose companies to see that the fire apparatus of every kind of which they have charge, is kept clean and in good order for immediate use, and that no obstructions are placed at the entrances of the several buildings in which the

apparatus is kept. They shall also appoint a steward whose duty shall be to clear the snow from the sidewalk in front of the house; and generally to see that their apparatus is ready for immediate use.

Absent members may be discharged, when.

ARTICLE 7. Any member of the department absenting himself from one-third of the fires that occur in six months, may be discharged from the department (for neglect of duty) by the board of engineers, and any member neglecting or refusing to perform his duty, shall be immediately reported to the board of engineers.

Companies or members doing special duty by requirement of mayor, &c.

ARTICLE 8. Any company or companies, or any member of the department, doing duty by requirement or invitation from the mayor, city council, committee on fire department, chief or board of engineers, shall act in strict conformity to the discipline as laid down in the ordinances and rules and regulations, and be subject to the penalties for non-compliance, and volunteer companies shall also be subject to the ordinances and regulations.

Members leaving the department, city property must be returned.

ARTICLE 9. Whenever any members leave the department, it shall be the duty of the foreman to see that the property belonging to the city be returned; and failing to procure such articles, the company shall be held responsible for the same, (if there is not a sufficient amount due the member from the city to protect the city from loss.)

Dry hose.

ARTICLE 10. It shall be the duty of the foremen of the several steamers, (in case the hose on their carriages have been wet), to have the same replaced with dry hose, immediately after their return to the engine house.

Nominations.

ARTICLE 11. All nominations for officers or members, made in the several companies, shall be by written ballot.

Drivers shall not act as substitutes.

ARTICLE 12. In no case shall the persons employed as drivers, act as substitutes for members, or answer for them at the roll call.

Rule for engine men.

ARTICLE 13. The enginemen of the several steamers shall not commence to work their engines or open hydrants at fires until the line of leading hose is run out, and the pipe attached thereto.

Printed copy for every member of fire department.

ARTICLE 14. The chief engineer shall furnish every member in the department with a printed copy of these ordinances and regulations, and shall cause a copy of the same to be kept in all the houses of the department, and also to furnish each engine house with a list of the public wells, reservoirs and hydrants, and the location of each.

One line of hose to a post hydrant.

ARTICLE 15. In case of fire but one line of hose shall be attached to any post hydrant without permission from an engineer.

ARTICLE 16. All members of the Portland fire department, and substitutes, not exceeding three for each engine and hose company and four for each hook and ladder company, shall, while on duty as firemen or at fires, in addition to the fire hat and leather badge now worn, wear the corporation badge in a plain conspicuous manner on the vest or coat and no member will be allowed to enter the line at a fire, or any building when on fire without such badge.

Corporation badge.

Badge not to be lent.

ARTICLE 17. No member will be allowed to lend his badge, on any pretext whatever, under the penalty of dismissal from the department.

Lost badge.

ARTICLE 18. Any member who loses his badge will immediately advertise the same and use his utmost diligence to recover it, and in case of failure will be charged with the price of two dollars ($2.00) for the badge.

Bad conduct of firemen. Report.

ARTICLE 19. If any member in going to or returning from a fire shall behave in any way unbecoming a fireman, any party aggrieved may report to the chief engineer the number of his badge, and if said fireman refuses to give his number correctly it will be

deemed good cause for his dismissal from the department.

ARTICLE 20. Each engine and hose company may have substitutes not exceeding three, and each hook and ladder company not to exceed four, to do duty in place of persons absent from duty in case of sickness or absence from the city. Substitutes.

ARTICLE 21. Any regulation not expressed in these regulations for the government of the companies, may be instituted for the time being by the board of engineers, to be observed until the next meeting of the city council, when it shall be submitted to their consideration. Board of engineers may temporarily institute new regulations.

ARTICLE 22. Not exceeding two men and the driver, will be allowed to ride on each hose carriage. Two men and driver to a hose carriage.

Fish.

[SEE TITLES "HEALTH," "WHARVES."]

Flour.

Statutes.

1. Appointment of inspectors.
2. Inspectors to be sworn and have certificates.
3. Duties.
4. Fraudulent marks. Penalty.
5. Alteration of marks. Penalty.
6. Purchaser may require inspection.
7. Sample packages.
8. This not applicable when inspection not demanded.

Appointment of Flour inspectors authorized. Who ineligible. R. S., 1871, c. 38, § 36.

1. The municipal officers of towns may appoint annually in their towns, one or more suitable persons not interested in the manufacture and sale of flour, to be inspectors thereof, for the period of one year from the date of appointment.

To be sworn, &c. Ibid. § 37.

2. Such inspector before entering upon the duties of his office, shall be sworn to the faithful and impartial discharge of the same before the town clerk, who shall give him a certificate of his appointment and qualification, upon payment of a fee of fifty cents, which shall be exhibited on the demand of any person interested in any inspection made by him.

Inspection, how made.

3. Inspection of flour shall be for the purpose of ascertaining its soundness, and every package inspected shall be opened sufficiently to allow a trier to be passed through it,

and a sample of the whole length of the passage shall be taken out and examined by the inspector, who shall mark upon each package with a brand, or stencil, the word "sound," or the word "unsound," as the quality of the flour contained in each shall be found, and his name, residence, office, and the year of inspection. He shall keep a record of all flour inspected by him, in a book kept for that use, which he shall exhibit to any person requiring it.

Duties of inspectors defined.

Ibid. § 38.

4. Every inspector who falsely and fraudulently marks any package of flour, shall be punished by a fine of five dollars for each package so marked, and shall forfeit to any person injured thereby, three times the amount of damage, to be recovered in an action of debt.

Penalty for fraudulent marks.

Ibid. § 39.

5. Every person who, with intent to defraud, alters, obliterates or counterfeits the marks of any inspector, and every person who, with such intent places upon any package of flour, marks which falsely purport to be inspection marks, shall, for every offence be punished by fine not exceeding fifty dollars, and on conviction of so doing on as many as ten packages at one time, shall also be punished by imprisonment in the county jail not exceeding ten months.

Penalty for alteration of marks.

Ibid. § 40.

6. Any person buying flour, may require it to be inspected before it is delivered, the fees of the inspector shall be five cents a package, for lots of less than ten packages; for lots of more than ten, and not exceeding twenty packages, two cents a package; and for any and every package exceeding twenty, one cent, to be paid by the person demanding inspection.

Purchasers may require inspection

Ibid. § 41.

7. The inspectors of flour shall, when required, determine whether it conforms to and equals the sample furnished to them, and shall mark, with some distinct and intelligible mark, the packages that are found like the sample, and for this service they may charge an additional compensation of one-half cent per package.

Duties in regard to sample packages.

Ibid. § 42.

8. Nothing herein contained, shall be held to prohibit or render illegal any contract for the manufacture, or sale of flour, which has not been inspected, when inspection is not required by the buyer or the seller.

Provisions not applicable when inspection is not demanded.

Ibid. § 43.

Gas.[1]

Statutes.

ITEM I.

ACT OF INCORPORATION.

1. Corporators and name.
2. Capital stock.
3. Regulations for pipes, &c.
4. Obstructions to travel, &c.
5. Council to contract for lighting streets.
6. Exclusive privilege under some circumstances.
7. Directors. Treasurer.
8. City authorized to hold stock, &c.
9. Authority of city to take property at appraised value after thirty years.
10. Exclusive privilege continued for twelve years.
11. Liability of company for obstructing streets.
12. Rights of mayor and aldermen in certain cases.
13. When act takes effect.

ITEM II.

1. Increase of capital stock.
2. Shares disposed of.
3. Rights of city.
4. Shares numbered, &c.
5. City to take certain number.
6. When act takes effect.

ITEM III.

1. Capital stock increased.
2. Capital stock first offered to existing shareholders.
3. City council may make the city joint owner of stock.
4. Directors, duties of.
5. Ownership, conditions of.

ITEM I.

Statutes.

PORTLAND GAS LIGHT COMPANY.

Act of Incorporation.

SECTION 1. Charles Q. Clapp, A. W. H. Clapp, John Neal, Abner Lowell, Francis O. J. Smith, Horace V.

[1] See title "Streets," for regulations in regard to laying pipes.

Bartol, and Henry B. McCobb, their associates and successors, are hereby constituted a body politic and corporate by the name of the Portland Gas Light Company, and by that name shall have and enjoy all the necessary powers and privileges to effect the objects of their association, and shall be subject to such duties, liabilities and exemptions as are or may be provided by the general laws of this State in case of manufacturing corporations. Act 1849, c. 288. Approved Aug. 12, 1849. Corporators. Corporate name. Powers and duties.

SECTION 2. The capital stock of said company shall be not less than thirty thousand dollars nor more than one hundred thousand dollars, and shall be divided into shares of one hundred dollars each. The said capital stock shall be applied exclusively to the manufacture and distribution of gas for the purpose of lighting the city of Portland; *provided*, that said company shall not have power to erect, establish or continue any works for the manufacture of gas at any place within the limits of said city of Portland, without the previous assent of the city council, and a specific assignment of the boundaries of such establishment, and such erection, establishment or continuance without such previous consent, shall be considered a nuisance, and said company shall be liable to indictment therefor, and to all the provisions of law applicable thereto. And nothing contained in this act shall be construed to affect or diminish the liabilities of said company for any injury to private property, by depreciating the value thereof, or otherwise, but said company shall be liable therefor in an action on the case. Capital stock. How applied. Proviso. Liability for injury to private property.

SECTION 3. The said company are hereby authorized to lay down in and through the streets of said city, and to take up, replace, and repair all such pipes and fixtures as may be necessary for the objects of their incorporation, first having obtained the consent of the city council therefor, and under such restrictions and regulations as said city council may see fit to prescribe. And any obstruction in any street of said city, or taking up or displacement of any portion of any street, without such consent of the city council, or contrary to the restrictions or regulations that may be prescribed as aforesaid, shall be considered a nuisance. And said company shall be Regulations for laying down pipes, fixtures, &c.

liable to indictment therefor and to all the provisions of law applicable thereto. And said company shall in all cases be liable to repay to said city all sums of money that said city may be obliged to pay on any judgment recovered against said city, for damages occasioned by any obstructions, or taking up or displacement of any street by said company whatever, with or without the consent of the city council, together with council fees and other expenses, incurred by said city in defending any suit to recover damages as aforesaid, with interest on the same, to be recovered in an action for money paid to the use of said company.

Liability to city for damages.

Obstruction to public travel in laying down, erecting or repairing works.

SECTION 4. Whenever the company shall lay down any pipes, or erect any fixtures in any street, or make any alterations or repairs upon their works in any street, they shall cause the same to be done with as little obstruction to the public travel as may be practicable. And shall at their own expense without unnecessary delay cause the earth and pavements removed by them, to be replaced in proper condition. They shall not be allowed in any case to obstruct or impair the use of any public or private drain, or common sewer or reservoir, but said company shall have the right to cross, or where necessary to change the direction of any private drain, in such manner as not to obstruct or impair the use thereof, being liable for any injury occasioned by any such crossing or alteration to the owner thereof, or any other person, in an action upon the case.

Not to obstruct or impair the use of any drain, &c.

City council authorized to contract for lighting the streets and public buildings.

SECTION 5. The city council of the city of Portland, are hereby authorized to contract with said company for lighting the streets and public buildings of said city, and the moneys necessary to be expended therefor, shall be assessed and collected in the same manner as taxes for other purposes.

Exclusive privileges granted under certain conditions.

SECTION 6. If the said company shall be duly organized within two years from the passage of this act, and shall within that time, have raised and expended at least ten thousand dollars for the objects of their incorporation, and shall have actually commenced the lighting of

the city with gas, they shall then have and enjoy the franchise and privileges granted them by this act exclusively, for the term of thirty years from the date of their organization, subject to the terms and limitations hereinafter prescribed, and subject to all such regulations and control as may, by law, be exercised over corporations by the judicial tribunals of this State; *provided*, and this grant is upon the condition, that said company should at all times, and within a reasonable time after request by the city council of Portland, supply with gas, to such an extent and in such a manner as may be required, any street or public buildings, at a fair and reasonable rate of payment therefor; and in case said parties cannot agree upon the rate of payment, said company shall be obliged to furnish said gas at a rate to be fixed by three disinterested persons, to be selected one by each of said parties, and a third by the two thus selected, who shall be paid for their services by said parties equally, and if said company shall at any time refuse, or unreasonably neglect to comply with this condition, the exclusive privilege herein granted shall be of no effect. Proviso.

SECTION 7. The management of the affairs of the company, and all expenditures made for the purposes authorized by this act, shall be directed by a board of directors, to be chosen annually, of such number as may be prescribed by the by-laws of the company. The accounts of the company shall be kept by a treasurer, who shall be chosen by the directors. The directors shall severally be sworn before the clerk of the corporation to make true and faithful exhibits in their records, of all expenditures directed or allowed by them for the purposes authorized by this act. The treasurer shall in like manner be sworn to make and keep true and distinct accounts of all expenditures authorized by the directors, and paid by him from the funds of the company. Directors. Treasurer.

SECTION 8. At any time after the organization of the company, the city of Portland shall be authorized, upon a vote of the city council to that effect, to take and hold in the capital stock of the company, an amount not City of Portland authorized to take and hold stock in said company.

Amount received for such stock to be paid over to other stockholders.

exceding one-half thereof, upon paying to the company a like proportional part of the cost, up to such time, of all their buildings, works, fixtures, pipes, and other property, and ten per cent. of such proportional part in addition thereto. The amount so received by the company for the proportional part so taken by the city shall be distributed and paid over to the other stockholders, in proportion to their several interests, and the par value of the several shares held by them shall be reduced accordingly. The company shall, at the same time, create and issue to the city such a number of shares of the same par value, together with a fractional share, if necessary, as shall represent the whole amount paid by the city for the proportional part of the capital stock so taken. At all meetings of the stockholders of the company, the shares held by the city shall be represented by such agent as the city council may by vote, from time to time appoint, who shall be entitled to cast one vote for every share held by the city. And if said company shall neglect to comply with the provisions of this section for the space of one month after an offer and request from the mayor to that effect, all the rights and privileges of said company shall wholly cease and be of no effect.

Value of the shares reduced accordingly.

Shares created and issued to city.

How represented.

Rights and privileges void if company neglect to comply within one month.

Authority of city to take the property of said company at its appraised value after thirty years.

SECTION 9. At the expiration of the term of thirty years named in the seventh section of this act, the city of Portland shall be authorized, upon the vote of the city council to that effect, to pay to said company the appraised value of their said buildings, works, pipes, fixtures, and other property, and upon such payment, may take and hold all said property, without any right, privilege or franchise remaining to said company, and may dispose of said property in such manner as the city council shall determine. For the purpose of making the valuation aforesaid, the city council shall, within three months before the expiration of the thirty years aforesaid, give notice to the company and appoint two disinterested persons, and the company shall appoint two other disinterested persons, to be appraisers, and the four persons so appointed, shall appoint a fifth disinterested person to be one of the appraisers. If the company shall neglect

Appraisers, how appointed.

or omit, for two months after the notice aforesaid, to appoint appraisers on its part, then the two appraisers appointed by the city council shall be authorized to make the appraisal, and the decision of the apparisers in either case, shall be final. And if said company shall neglect or refuse for the space of one month after an appraisal shall have been made in pursuance of the provisions of this section, and after said city shall have notified said company of its readiness to take said property at such appraisal, to deliver all its aforesaid property to said city, and to execute good and sufficient conveyances thereof then said city may take possession of said property and hold the same as is hereinbefore provided, being responsible to said company to pay the appraised value aforesaid, and no sale of said property, at any time by said company, in derogation of the rights of said city herein specified, shall be valid, and the rights and privileges of said company as a corporation shall wholly cease from and after their refusal as aforesaid.

Provision in case said company should neglect or refuse to deliver its aforesaid property to city.

SECTION 10. If the city of Portland shall not so pay for and take the property of the company, at the appraisal so made, then the franchise and privileges hereby granted to said company, shall be continued to them and shall be held and enjoyed by them exclusively, for a further term of twelve years after the expiration of the thirty years aforesaid, subject to the limitation prescribed in the ninth section of this act.

Exclusive privileges continued to said company for twelve years, in case said city should not take the property.

SECTION 11. If the said company or any of their servants or officers employed in effecting the objects of the company, shall wilfully or negligently place or leave any obstructions in any of the streets of Portland, beyond what is actually necessary in laying down, taking up and repairing their fixtures, or shall wilfully or negligently omit to repair and put in proper condition any street, in which the earth or pavements may have been removed by them, the company shall be subject to indictment therefor, in the same manner that towns are subject to indictment for bad roads, and shall be holden to pay such fine as may be imposed therefor, which fine shall be collected, applied and expended in the same manner as is provided

Liability of company for willfully or negligently leaving obstructions in any street.

Or for neglecting to repair any street, &c.

Fine, how collected and applied.

in case of the indictments aforesaid against towns, or may be ordered to be paid into the treasury of the city.

Liable for personal injury by reason of said negligence, &c.

If any person shall suffer injury in his person or property by reason of any such negligence, wilfulness or omission, he shall be entitled to recover damages of the company therefor, by an action on the case, in any court of competent jurisdiction.

Rights of mayor and aldermen in certain cases.

SECTION 12. The mayor and aldermen for the time being, shall at all times have the power to regulate, restrict and control the acts and doings of said corporation, which may in any manner affect the health, safety or convenience of the inhabitants of said city.

SECTION 13. This act shall be taken and deemed to be a public act, and shall be in force from and after its approval by the governor.

ITEM II.

An Act to increase the Capital Stock of the Portland Gas Light Company.

Act 1854, c. 203, March 8, 1854.

SECTION 1. The Portland Gas Light Company is hereby authorized to increase its capital stock to the extent of one hundred thousand dollars, so that the whole capital stock of said company shall be two hundred thousand dollars, instead of the amount now established. The said additional capital shall be divided into shares of fifty dollars each, which shall be the established par value of the same.

Capital stock, increase of

Shares.

How disposed of.

SECTION 2. Whenever the directors of the company shall vote to issue any part of such additional shares, the same shall be first offered to and may be taken by the existing shareholders, in proportion to their several amounts of stock. The balance of any such issue not taken by existing shareholders, may be sold and disposed of by the directors, in such manner as they may deem most for the interest of the company. The said additional capital and

shares shall be issued subject to the rights of the city of Portland, as herein provided.

Rights of city of Portland.

SECTION 3. If the city of Portland shall not, at the time of any issue of such capital stock, take its proportional number of shares thereof, the city council may at any time thereafter, by vote, determine to take for the city, so many of the additional shares aforesaid, as may be required to constitute the city the owner of one-half of all the said additional capital stock of the company.

Same subject.

Shares to be numbered.

SECTION 4. For the purpose of effecting the object provided by the last preceding section, the directors of the company, whenever they shall issue any of the additional stock aforesaid, shall cause the shares thereof to be number consecutively, and the numbers of all the shares so issued to be expressed in the several certificates representing the same, and in the several shareholders' accounts on the stock books of the company. The certificates of such additional stock shall also express that the shares therein represented are issued and held subject to the provisions of this act.

Stock issued subject to the provisions of this act.

City council authorized to take a certain number of shares.

Amount per share.

Vote of city council to be certified to directors of company, &c.

Treasurer authorized to receive and pay over purchase money.

Shall issue certificates of shares.

SECTION 5. Whenever the city council shall determine by vote as aforesaid, to take additional shares, as provided in the third section of this act, the city shall be entitled to take and become the owner of all the new shares issued as aforesaid, which are numbered by the even numbers, and shall thereupon pay to the treasurer of the company, the sum of fifty-five dollars for every share so taken. The vote of the city council as aforesaid shall be certified to the directors of the company, and they shall cause the same to be recorded in their record. The treasurer shall receive the amount so paid by the city, and shall hold the same, subject to be paid to the order or receipt of the several persons from whom the said shares shall be so taken. He shall issue to the city, certificates of the shares so taken and paid for by the city, and shall adjust the stock accounts of the several shareholders from whom the same are so taken accordingly,

and issue to them, if required, new certificates representing the balance of their shares.

SECTION 6. This act shall take effect from and after its approval by the governor.

ITEM III.

Act to Further Increase Capital Stock.

Act 1856, c. 544, Feb. 5, 1856.

SECTION 1. The Portland Gas Light Company is hereby authorized to increase its capital stock, to the extent of two hundred thousand dollars, so that the whole capital stock of said company shall be four hundred thousand dollars, instead of the amount now established. The said additional capital stock shall be divided into shares of fifty dollars each, which shall be the established par value of the same.

Capital stock increased.

Shares, par value of,

Stock first offered to existing shareholders.

SECTION 2. Whenever the directors of the company shall vote to issue any part of such additional shares, the same shall be first offered to, and may be taken by the existing shareholders, in proportions to their several amounts of stock. The balance of any such issue not taken by existing stockholders, after twenty days' notice given in one of the daily newspapers published in the city of Portland, to the stockholders, may be sold and disposed of by the directors, in such manner as they may deem most for the interest of the company. The said additional capital and shares shall be issued, subject to the rights of the city of Portland as herein provided.

Balance, how disposed of.

City of Portland, rights of.

City council may make the city joint owner of stock.

SECTION 3. If the city of Portland, at the expiration of the twenty days' aforesaid, shall not have taken its proportional number of shares thereof, the city council may, at any time thereafter, by vote, determine to take for the city, so many of the additional shares aforesaid, as may be required to constitute the city the owner of one-half of all the said additional stock of the company.

Directors, duties of.

SECTION 4. For the purpose of effecting the object provided by the last preceding section, the directors of the company, whenever they shall issue any of the additional stock aforesaid, shall cause the shares thereof to be numbered consecutively, and the numbers of all the shares so issued, to be expressed in the several certificates representing the same, and in the several shareholders' accounts on the stock books of the company. The certificates of such additional stock shall also express that the shares therein represented are issued and held subject to the provisions of this act.

Ownership, conditions of.

SECTION 5. Whenever the city council shall determine by vote as aforesaid, to take additional shares as provided in the third section of this act, the city shall be entitled to take and become the owner of all the new shares issued as aforesaid, which are numbered by the even numbers, and shall thereupon pay to the treasurer of the company, the sum of fifty-five dollars for every share so taken. The vote of the city council as aforesaid, shall be certified to the directors of the company, and they shall cause the same to be recorded in their record. The treasurer shall receive the amount so paid by the city, and shall hold the same, subject to be paid to the order or receipt of the several persons from whom the said shares shall be so taken. He shall issue to the city certificates of the shares so taken and paid for, and shall adjust the stock accounts of the several shareholders from whom the same are so taken accordingly, and issue to them, if required new certificates representing the balance of their shares.

Shares, value of.

Treasurer, duties of

Gunpowder and Explosive Substances.

Statutes.

1. Municipal officers to regulate keeping, &c.
2. Persons injured by explosion may recover damages. Penalty.
3. Municipal officers may search for gunpowder.
4. Not to be sold in Portland without license.
5. License, price of. Licensed persons to put up signs.
6. Mayor and aldermen may make rules to regulate sale.
7. Penalties for violating provisions of law.
8. Building for manufacture, when a nuisance.

RULES, &C., ESTABLISHED BY MAYOR AND ALDERMEN.

1. Mayor and aldermen to appoint keeper of magazine.
2. Duties of keeper of magazine.
3. No person to keep or sell without license.
4. Licensed persons not to keep more than seventy-five pounds.
5. To be kept in copper chests.
6. Vessels not to land or receive over twenty-five pounds without permit.
7. Permits to land or ship gunpowder, how granted.
8. Same subject.
9. How to be transported through city.
10. Signs to be put up by licensed persons.
11. Penalty.
12. Persons to transport gunpowder may be appointed by mayor, &c.

Statutes.

Municipal officers to make regulations.

R. S., 1871, c. 26, § 24,

1. In every town, the municipal officers may make regulations, in conformity to which shall be kept in the town or transported from place to place all gunpowder, petroleum, coal oils, burning fluids, naphtha, benzine, and all explosive and illuminating substances which such officers shall adjudge dangerous to the lives or safety of citizens; and no person shall keep any of said articles in

any other quantity or manner, than is prescribed in such regulations, under a penalty of not less than twenty nor more than one hundred dollars for each offence; and all such articles may be seized by any of said officers as forfeited; and within twenty days after such seizure, be libeled according to law. Penalty.

2. A person injured by the explosion of such articles in possession of any person contrary to the regulations established as aforesaid, may have an action for damages against such possessor, or against the owner thereof, if conusant of such neglect. Persons injured by explosion may recover damages. Ibid. § 25.

3. Any municipal officer, with a lawful search warrant, may enter any building or other place in his town to search for such articles supposed to be concealed there contrary to law. Power of municipal officers to search for gunpowder. Ibid. § 26.

4. It shall not be lawful for any person or persons to sell any gunpowder, which may at the time be within the city[1] of Portland, in any quantity, by wholesale or retail, without having first obtained from the mayor and aldermen of said city, a license to sell gunpowder; and every license shall be written or printed, and duly signed by the mayor, on a paper, upon which shall be written or printed a copy of the rules and regulations established relative to keeping, selling, and transporting gunpowder within the said city; and every such license shall be in force for one year from the date thereof, unless annulled by the mayor and aldermen, and no longer; but such license may, prior to its expiration, be renewed by an endorsement thereon by the mayor for the further term of one year, and so from year to year; *provided*, always, that the mayor and aldermen may rescind or annul any such license, if, in their opinion, the person or persons licensed have disobeyed the law, or infringed any rule or regulation established by the mayor and aldermen. Not lawful for any person to sell within the city of Portland, gunpowder without license. Act, 1833, 337, § 1. License to be in force one year. May be renewed. Proviso.

5. Every person who shall receive a license to sell gunpowder, as aforesaid, shall pay for the same to the treasurer of the city, the sum of five dollars, and every person on having a license renewed, shall pay to said treasurer the sum of one dollar. And any person or persons Amount to be paid for license. Ibid. § 2.

[1] See Title "Fire Department," § 19, *et seq.*

Persons licensed to keep a sign over the door of the building in which gunpowder is sold, with the words thereon, "Licensed to keep and sell Gunpowder."

licensed to keep and sell gunpowder, as aforesaid, shall place and constantly keep in a conspicuous place over or at the side of the front door of the building in which powder is kept for sale, a sign, on which shall be inscribed in plain, legible letters, the words following, viz: "Licensed to keep and sell gunpowder."

Mayor and aldermen may establish rules and regulations for the sale of gunpowder.

Ibid. § 3.

6. The mayor and aldermen of the city of Portland are authorized to make and establish rules and regulations, from time to time, relative to the times and places at which gunpowder may be brought to or carried from said city, by land or water, and the time and manner in which the same may be transported through said city, and prescribe the kind of carriage, boat or vehicle, in which the same may be brought to, transported through, or carried from said city. *Provided*, *however*, that said rules and regulations shall not be applied to any person or persons, excepting inhabitants of the city of Portland, until personal notice shall have been given of the existence of said rules and regulations.

Proviso.

Penalties.

Ibid. § 4.

7. If any gunpowder, kept contrary to the provisions of this act, or contrary to the terms and conditions of any such license, or to any rules and regulations established or to be established, by the mayor and aldermen, as aforesaid, shall explode in any shop, store, dwelling-house, warehouse, or other building, or in any other place in said city, the tenant, occupant, or owner of said shop, store, dwelling-house, warehouse, or other building, or place, shall pay a fine of not less than fifty nor more than three hundred dollars, one moiety thereof to the use of the poor of said city, and the other moiety to the use of the person who may sue therefor, to be recovered by action of debt.

When buildings for manufacture of gunpowder shall be deemed nuisances. 1877, c. 219.

8. If a person carries on the business of manufacturing gunpowder, or of mixing or grinding the composition therefor, in any building within eighty rods of any valuable building not owned by such person or his lessor, which was erected when such business was commenced, the former building shall be deemed a public nuisance; and such person may be prosecuted accordingly.

Rules and Regulations

ESTABLISHED BY MAYOR AND ALDERMEN.

Mayor and aldermen to appoint keeper of powder magazine.

Adopted by mayor and aldermen, Dec. 31, 1855.

1. The mayor and aldermen shall annually, in the month of April, appoint a keeper of the city powder magazine, who shall be sworn to the faithful discharge of the duties of the office, and give bond with sureties to be approved by the mayor and aldermen in the sum of two hundred dollars for the faithful performance of his duties.

To give bond. Rev. Ord. 1868.

Duties of keeper of powder magazine.

2. It shall be the duty of the keeper of the city powder magazine to receive and safely keep in the city powder magazine, all powder brought thereto for deposit, and deliver the same to the owner thereof, or his order, when thereto requested, for such fees, to be paid to him by such owner, as may be established therefor, and shall only deliver powder in the manner prescribed in these rules and regulations.

No person allowed to keep or sell gunpowder without license.

3. No person shall keep or have in his shop, store, dwelling-house or other tenement, at any one time, a larger quantity of gunpowder than one pound unless he is licensed by the mayor and aldermen to keep and sell gunpowder, which license shall expire in one year from its date.

No licensed person to keep over 75 lbs. Ibid. as amended in 1863.

4. No person licensed as aforesaid, shall have or keep in his store, shop, dwelling-house or any other tenement, or place whatever, at any one time, a larger quantity of gunpowder than seventy-five pounds.

To be kept in copper chests.

5. Every person licensed as aforesaid, shall provide himself with a strongly made copper chest or box, with a copper cover well secured with hinges and lock of the same material; and the kegs or canisters in which said powder may be, shall be kept in said copper chests or box, which shall, at all times,

Chests to be placed near outer door.

be placed near the outer door of the building in which it is kept, in a convenient place for removal in case of fire.

Vessels not to land or receive over 25 lbs. without permit.

6. No person shall haul unto or lay at any wharf bridge or other landing place in this city, or bring within two hundred yards thereof any boat or vessel having on board any quantity of gunpowder exceeding twenty-five pounds, or land from or receive on board any boat or vessel, at any such wharf, bridge or landing place, any gunpowder exceeding the amount aforesaid without obtaining a permit from the mayor; and no boat or vessel with gunpowder on board in quanity exceeding twenty-five pounds, shall remain at any wharf, bridge or other landing place in the city more than six hours; nor shall any such boat or vessel be allowed to ground at any such place, or remain there after sunset.

Not to lay at any wharf.

Mayor and chairman of committee on fire department may grant permits to land or ship gunpowder.

7. The mayor, or in his absence, the chairman of the committee on fire department, may grant permits to land gunpowder for immediate shipment or transportation, on either of the abutments near the draw of Tukey's bridge; they may also grant permits to land or ship gunpowder from canal boats or other boats on board vessels lying at or near the end of Smith's wharf or either of the wharves between said Smith's wharf and Portland bridge, provided that the consent in writing of the owner or agent or wharfinger of such wharf shall first be delivered to the mayor.

Same subject.

8. The mayor, or in his absence, the chairman of committee on fire department, may grant permits for landing upon or shipment from any wharf in the city, of gunpowder in quantity not exceeding six kegs of twenty-five pounds each.

How to be transported through the city.

9. No gunpowder shall be conveyed from the manazine through any street in the city in any carriage other than the one provided for such purposes by

the city, excepting however, that a quantity not exceeding six kegs of twenty-five pounds each may be conveyed through any street if the same be in tight casks and each of said casks put into a strong bag and remain in such bag while in any street. *Provided*, that the owners of powder mills may transport powder to the city powder magazine, or when the Cumberland and Oxford canal is closed, to the bridge or the wharves named in section seven, entering the city by Congress or Portland streets, along Vaughan, Brackett and Arsenal streets, to the city powder magazine, in their own carriages safely covered. And the owners of powder mills may convey powder intended for shipment as in section seven, in their own carriages safely covered, through Vaughan, Danforth and Canal streets, to the wharves named in section seven, and in no case shall any vehicle in which powder is so conveyed, be allowed to stop in any street. *Provided*, however, that on and after the completion of Waldo street, said carriages, when transporting powder for shipment as aforesaid, shall pass through said Waldo, Canal and Commercial streets to the wharves aforesaid.

Proviso.

Streets through which gunpowder may be conveyed.

Proviso.

10. Every person licensed to sell gunpowder shall have and keep a sign board over the outside of the door or principal entrance to the building in which such powder is kept, on which shall be distinctly painted the words, "Licensed to keep and sell gunpowder."

Persons licensed to keep sign over the door, with the words "Licensed to keep and sell gunpowder" thereon.

11. Every person violating any of these rules and regulations will be liable to a fine of not less than twenty nor more than one hundred dollars, as provided in revised statutes, chapter twenty-six.

Penalties.

12. The mayor and aldermen shall annually appoint one or more persons whose duty it shall be to trans-

Mayor and aldermen to

appoint persons to transport gunpowder.

port all gunpowder in the city that may be required, and who shall have the custody of the vehicle provided for that purpose, whose compensation shall be such as the mayor and aldermen may determine.

Harbor[1] of Portland.

Statutes.

1. The boundaries of the harbor of Portland defined.
2. Same subject.
3. Wharves, &c., not to be extended beyond said lines, or materials deposited in said harbor, or land removed, Abatement of such erections, &c.
4. Receiving basins and reservoirs in said harbor defined, subject to control of commissioners. Erections, &c.. therein, without permission, prohibited. Such permission to be deposited and recorded.
5. Prosecutious and punishment for violations of this act.
6. Appointment of commissioners. Term of office.
7. S. J. Court may issue writ of injunction, &c.
8. Commissioners' powers extended—restrictions and penalties.
9. Compensation of commissioners.
10. Act of 1874. Fore river lines.
11. " " No wharves beyond harbor lines.
12. " " Existing remedies extended.
13. " 1877. Certain laws not to apply to Portland harbor.
14. " " " " continued in force. Power of commissioners.
15. Atlantic & St Lawrence wharves beyond common line.

Ordinances.

1. Harbor master to be appoinled.
2. " " his duties.
3. Stones, &c., not to be thrown in the harbor.
4. Rules for vessels in harbor.
5. Penalty for violating rules.
6. Of vessels anchored contrary to rules.

[1] The legislature has power to establish a harbor line and enforce its act, Commonwealth *v.* Alger, 7 Cushing, 53.

See R. S., 1871, c. 36, "Lighters and Harbors," and full provisions for same.

Statutes.

RELATING TO PORTLAND HARBOR.

The boundaries of the harbor of Portland defined.

Act, 1856, c. 654, § 1.

1. The harbor of Portland is bounded north-westerly by a line commencing at the eastern corner of the Gas Company's wharf, next above the Portland bridge, and extending straight to the southern corner of the end of Robinson's wharf, and along the end of it to the eastern corner; thence straight to the southern corner of the end of Central wharf, and along the end of it to the eastern corner; then straight to the southern corner of the end of Custom House wharf, and along the end of it to the eastern corner; thence straight to the southern corner of the end of Railway wharf, and along the end of it to the eastern corner; thence to the southern corner of the end of St. Lawrence wharf, and along the end of it to the eastern corner;[2] thence parallel to the straight portion of the outside railroad track, to the shoals to the southward of Fish point, as defined on the plan of Portland harbor, made by the United States Coast Survey, in the year one thousand eight hundred and fifty-three.

This part of boundary changed by act of 1881, given below in full.

Act of 1881, Feb. 24.

Boundaries east of Galt's wharf.

[2] Section 1. That portion of the harbor commissioners' line in Portland harbor, established in the year eighteen hundred and fifty-six, lying easterly of Galt's wharf, so called, is hereby changed and established to run as follows: Starting at a point located at the south-east corner of Galt's wharf, at the junction of the straight southerly face with the curve forming this, round, corner of said wharf, marked by a composition spike, driven into the cap timber about one and a one-half inches from its outer edge. By reference to two fixed points, marked by copper bolts and called the east and west base, the former on the outer pier of Portland Breakwater, the latter thirty-eight and five-tenths feet west of the shore end of the same, the starting point is permanently located as follows. Angle at west base between Galt's wharf and east base, eighty-six degrees, seven minutes. Angle at east base between Galt's wharf and west base, fifty-six degrees, three minutes. Distance from west base to Galt's wharf, composition spike, two thousand six hundred ninety and thirty-four one-hundreths feet. Distance from east base to Galt's wharf, composition spike, three thousand two hundred thirty-five and seventy-eight one-hundredths feet. Starting from the point on Galt's wharf, located and described as above, the line runs north-easterly, making an angle of fifty-six degrees, five minutes, with the east base, for a distance of three thousand one hundred and ninety feet, to a point lying in the prolongation of the north-easterly side of the easterly Great Eastern wharf, so called, and three hundred and fifteen feet distant from the south-easterly corner of said wharf; thence northerly and tangent to the curved harbor commissioners' line around Fish Point, established by the commission of eighteen hundred and sixty-eight.

Section 2. This act shall take effect when approved.

Same subject. Ibid. § 2.

2. It is bounded southeasterly by a line commencing at the end of the breakwater as it now is, and extending southwestly to the easterly corner of the end of Ferry wharf; thence along the end of it to its westerly corner; thence in a straight line to Portland bridge, at a point of eight hundred and fifty feet from the point where the northwesterly line of the harbor touches said bridge, and nine hundred and seventy-five feet from the line of high water mark in Cape Elizabeth.

Wharves, &c., not to be extended beyond said lines, or materials deposited in said harbor, or land removed.

Abatement of such erections, &c.

Ibid. § 3.

3. No wharf or incumbrance of any kind shall ever hereafter be erected or extended into said harbor beyond either of said lines. No stones or other materials shall be deposited in said harbor. No land within the same covered with water shall be be removed without the written permission of the commissioners hereafter named. Every erection, incumbrance or material, erected, placed or deposited in said harbor, within the lines aforesaid, shall be deemed a public nuisance liable to abatement.

Receiving basins and reservoirs of said harbor defined.

Subject to control of commissioners.

4. The receiving basins and reservoirs of said harbor shall comprehend the tidal waters of Fore river and Back Cove, and those along the shore north easterly to the easterly side of the mouth of the Presumpscot river. They shall be and hereby are subjected to the control and regulation of the commissioners hereafter named. No erection, incumbrance or material, shall hereafter be placed or deposited in those waters, which will obstruct the flow and ebb of those waters, or diminish the volume thereof, without the written permission of said commissioners, or of a major part of them, therein describing the extent and character of the erection or deposit so permitted. Such permission by them subscribed shall be left with the clerk of the city of Portland, to be by him recorded before any such erection, obstruction or deposit is made. All erections, obstructions or deposits, made contrary to these provisions, are to be deemed public nuisances and liable to abatement.

Erections, &c., therein, without written permission of commissioners prohibited.

Such permission to be deposited and and recorded

Ibid. § 4.

5. Any person who shall offend against any of the provisions of this act, shall be deemed guilty of a

Prosecutions and punishment for violations of this act.
Ibid. § 5.

misdemeanor, and liable to prosecution therefor, by indictment in any court of competent jurisdiction, and on conviction, be punished by a fine not exceeding five hundred dollars; and he may also be sentenced to pay all expenses for an abatement or removal of such erection, obstruction or deposit made by him, and to stand committed until he shall pay the same, or give satisfactory security therefor.

Appointment of commissioners.

6. The governor shall nominate, and with the advice and consent of the council, appoint three persons commissioners of the harbor and tidal waters connected therewith, of the city of Portland. One of those first appointed shall continue in office one year, one for two, and the other for three years. At the expiration of each

Terms of their office.
Ibid. § 6.

person's term of service, the same or another person shall in like manner be appointed to serve for three years. When a vacancy shall happen by death, resignation, or removal from the State, another person shall in like manner be appointed in his place to continue in service to the end of his term.

S. J. Court may issue writ of injunction.

7. Whenever on application of the mayor and aldermen of the city of Portland, or of the commissioners of the harbor of Portland, it shall be made to appear to the supreme judicial court at any term thereof holden in said city, or to any justice thereof out of such term time, that any person or persons are violating the provisions of an act to preserve the harbor of Portland, approved April third, eighteen hundred and fifty-six, [sections 4, 5, and 6 above] such court or justice may forthwith issue a writ of injunction to stay all proceedings adjudged to be in

May on hearing dissolve, continue or make injunction perpetual.

violation of said act until further order, and may on a hearing, dissolve, continue or make such injunction perpetual as justice may require, and may adjudge that the

Costs of injunction, by whom to be paid.
Act 1858, c. 151.

person or persons so violating the law shall pay all costs and expenses of such proceedings, and so much thereof as shall not be thus paid, shall be paid by the city of Portland.

Commissioners' powers extended.

8. All the powers heretofore conferred upon the commissioners of the harbor of Portland, over the receiving basins and reservoirs of said harbor, are hereby extended

over the tidal waters southerly and easterly of the lines of said harbor, so far as the jurisdiction of this State extends, including all channels and entrances into said harbor; and all acts forbidden to be done within the bounds of said basins and reservoirs are forbidden to be done within the bounds herein designated, under the like restrictions and penalties and with like modes of redress as provided by the former and present acts.

Restrictions and penalties. Ibid. c. 161, § 1.

9. The commissioners shall be entitled to receive from the city of Portland a reasonable compensation for all services actually performed.

Compensation of commissioners. St., 1856, c. 654, § 7. Act of 1874.

10. The following lines are hereby established as the harbor lines in Fore river of Portland harbor, as defined on the plan of the same accompanying the report of the advisory council called by the commissioners on Portland harbor, in the year one thousand eight hundred and seventy-three, to wit, "The line on the northerly side of the river begins at the termination of the harbor line of eighteen hundred and fifty-five, at the south-westerly corner of the pile wharf of the gas company, marked 'A' on said plan and runs south-westerly in a straight line to the outer angle of the stone wharf, next westwardly from the said pile wharf, marked 'B' on said plan; thence westwardly in a straight line to the south-easterly corner of the solid abutment at the northerly end of the eastern railroad bridge, marked 'C' on said plan; thence westwardly in a straight line to the south-westerly corner of the pile wharf of the plaster mill, marked 'D' on said plan; thence westwardly, more northerly, in a straight line, at an angle of one hundred and seventy-three degrees and thirty-five minutes with the last named line, a distance of eight-hundred feet to a point marked 'E' on said plan; thence westwardly more northerly, in a straight line, at an angle of one-hundred and seventy-eight degrees and fifty-five minutes with the last named line, a distance of eight hundred feet, to a point marked 'F' on said plan; thence westwardly, more southerly, in a straight line, at an angle of one hundred and seventy-six degrees and forty-five minutes with the last named line, a distance of six hundred feet, to a point marked 'G' on said plan; thence westwardly, more southerly, in a straight line at

Harbor lines on on Fore river, Portland Harbor. Act 1874, c. 554.

Lines on the northerly side of the river.

an angle of one hundred and sixty-six degrees with the last named line, a distance of six hundred feet, to a point marked 'H' on said plan; thence westwardly, still more southerly, in a straight line, at an angle of one hundred and seventy-one degrees and ten minutes with the last named line, a distance of six hundred and fifteen feet, to a point marked 'I' on said plan; thence north-westwardly on an arc of a circle of three hundred and forty feet radius, of which the last named line is tangent, a distance of about five hundred and eighty-three feet, to a point marked 'J' on said plan; thence northerly, in a straight line tangent to said circle, to a point on the south-easterly side of the Boston and Maine railroad bridge, distant two hundred feet south-westerly from the stone sea wall at the north-easterly end of said bridge, measuring along the easterly side thereof, to a point marked 'K' on said plan. The lines on the southerly side of the river are located in two sections. In section one, beginning at a point marked 'A' on said plan, on the westerly side of Portland bridge in line with the sea wall of the Dry Dock company's wall extended, which point corresponds with the point of intersection of the commissioners' line of eighteen hundred and fifty-five; with the said westerly side of said bridge; the line runs south-westerly in a straight line at an angle of one hundred and six degrees and forty-six minutes with said westerly side of said bridge, a distance of six hundred feet to a point marked 'B' on said plan; thence more westerly in a straight line, at an an angle of one hundred and sixty-three degrees and forty-five minutes, with the last named line a distance of six hundred feet to a point marked 'C' on plan; thence still more westerly in a straight line at an angle of one hundred and sixty-four degrees and fifty-five minutes, with the last named line, a distance of six hundred feet to a point marked 'D' on said plan; thence westerly, in a straight line, to the westerly corner of the solid abutment on the southerly end of the Eastern railroad bridge, marked 'E' on said plan; thence westerly, in a straight line, at an angle of one hundred and thirty-seven degrees and ten minutes, with the westerly side of said railroad bridge, a

Southerly side, section one.

distance of one thousand feet, to a point marked 'F' on said plan; thence westerly, more southerly, in a straight line, at an angle of one hundred and seventy-two degrees and forty-five minutes with the last named line, a distance of six hundred feet, to a point marked 'G' on said plan; thence westerly, more southerly, in a straight line, at an angle of one hundred and forty-one degrees and thirty minutes with the last named line, a distance of six hundred feet, to a point marked 'H' on said plan; thence southerly, in a straight line, at an angle of one hundred and forty-four degrees and ten minutes, with the last named line, a distance of one hundred feet, to a point marked 'I' on said plan. On section two, beginning at a point marked 'K' on said plan, at the northerly corner of the solid abutment on the westerly end of the Boston and Maine railroad bridge, the line runs southerly in a straight line, to the north-westerly corner of the Rolling Mills bridge, marked 'L' on said plan; thence south-easterly, in a straight line, to a point on the south-easterly side of Vaughan's bridge, distant three hundred and forty feet south-westerly from the easterly corner of the abutmen on the southerly side of the draw-way opening in said bridge, marked 'M' on said plan; thence southerly, more easterly, in a straight line, at an angle of one hundred and fifty-seven degrees and thirty-five minutes with the last named line, a distance of six hundred and fifteen feet to a point marked 'N' on said plan; thence in a straight line easterly, at an angle of one hundred and fifty-five degrees and five minutes with the last named line, a distance of six hundred feet, to a point marked 'O' on said plan; thence in a straight line easterly, a little northerly, at an an angle of one hundred and sixty-one degrees and ten minutes with the last named line, a distance of six hundred feet, to a point marked 'P' on said plan; thence in a straight line easterly, more southerly, at an angle of one hundred and fifty degrees and thirty minutes with the last named line, a distance of six hundred feet, to a point marked 'Q' on said plan; thence in a straight line southerly, at an angle of one hundred and thirty-eight degrees and forty minutes with

Southerly side, section two.

the last named line, a distance of six hundred feet to a point marked 'R' on said plan.

No wharves to extend beyond harbor lines. Ibid. § 2.

11. No wharf or incumbrance of any kind shall hereafter be erected or extended into said fore river, beyond either of said lines; and no wharf, erection or incumbrance or alteration or enlargement of any wharf, erection or incumbrance heretofore made, built or erected, shall hereafter be made between the lines of Portland harbor as heretofore established, and high water mark, or within the lines established by this act and high water mark, without the written permission of the commissioners of the harbor and tidal waters of the city of Portland, therein describing the extent and character of the work so permitted; such permission by them subscribed shall be left with the clerk of the city of Portland, to be by him recorded, before such work shall be commenced. Any wharf, erection, incumbrance or alteration or enlargement of the same, made contrary to these provisions, shall be deemed a public nuisance and liable to abatement.

Wharves, &c. within harbor to be built by permission of Harbor Commissioners.

Permission recorded with city clerk.

Existing remedies extended Ibid. § 3.

12. All remedies by indictment, injunction or otherwise heretofore existing and given for violation of any provisions of law relating to Portland harbor are hereby extended to violations of the provisions of this act, and this act shall not be held to repeal any previous act relating to said harbor, or in any manner to abridge the powers of said commissioner over the same.

C. 78, Laws of 1876 shall not apply to Portland Harbor. Act 1877, c. 383.

13. Chapter seventy-eight of the public laws of eighteen hundred and seventy-six shall not apply to Portland harbor, or to the harbor commissioners of Portland harbor.

C. 654, of 1856 and c. 544, 1874 continued in force. Ibid.

14. Chapter six hundred and fifty-four of the special laws of eighteen hundred and fifty-six, being "an act to preserve the harbor of Portland," and chapter five hundred and fifty-four of the special laws of eighteen hundred and seventy four, being "an act to establish the line of Portland harbor in Fore river," shall continue in full force and effect, and said harbor commissioners shall continue to exercise all the powers conferred upon them by said special laws, and shall have and exercise all the powers which are conferred upon the municipal officers of towns by said chapter seventy-eight.

Power of Harbor Commissioners.

15. The Atlantic and St. Lawrence Railroad Company and its lessees, are hereby authorized to build and maintain in the waters of Portland Harbor, and in front of any lands now owned or leased by said parties or which may be hereafter purchased or leased, a wharf or wharves extending into said waters to a distance not exceeding two hundred feet beyond the harbor line eastward of Galt's wharf provided that the consent of the harbor commissioners of Portland or the city council of Portland shall first be obtained.

Atlantic and St. Lawrence wharves east of Galt's wharf to be permitted to go beyond commissioners' line. Act 1881, Feb. 4.

Ordinances.

1. There shall be elected annually, on the second Monday of the month of March, or as soon thereafter as may be, by the city council in convention, an able and discreet person, to be styled the harbor master,[1] who shall hold said office until removed, or a successor appointed; and he shall be sworn to the faithful performance of his duty. He shall receive such compensation for his services as the city council shall establish, and shall be removed at their pleasure; and in case said office shall be vacant at any time, such vacancy shall be filled forthwith, in the manner prescribed.

Harbor master to be appointed.

To be sworn.

Compensation.

Ord. March 29, 1850, and re-enacted in Rev. Ord. 1868.

2. It shall be the duty of the harbor master to take charge and see to the preservation of the harbor, within the limits of the city of Portland, and extending to low water mark on the shore of Cape Elizabeth, and to enforce all such rules and regulations as may be ordained or ordered by the city council or mayor and aldermen from time to time, with reference thereto, and to collect all penalties that may be incurred by a violation of the same.

Duties of Harbor master.

3. No person shall throw or deposit, or cause to be thrown or deposited, in said harbor, any stones, gravel, cinders, ashes, dirt, mud, or other substance

Stones, &c., not to be thrown into harbor.

[1] Harbor master may be appointed by towns also; 1872, c. 53.

which may in any respect tend to injure the navigation thereof. And any person violating the foregoing provisions of this section, shall for each offense be liable to a penalty of fifty dollars.

Rules for regulation and management of vessels.

4. The following rules are adopted for the regulation and management of vessels in said harbor, viz:

I. All of said harbor west of what is called Hog Island Roads, shall be denominated the upper harbor, and all vessels in said upper harbor shall be anchored according to the direction of the harbor master.

Ord. Sept. 14, 1869.

II. All vessels entering the upper harbor, not intended to be conveyed to some wharf immediately, shall be anchored on the south side of a line ranging with the red buoy near the north-east end of the breakwater, and the south-east end of Portland, Saco and Portsmouth railroad wharf, up to abreast the end of Brown's wharf.

As amended by Ord. Dec. 16, 1859, and Rev. Ord. 1868.

III. Outward bound vessels shall be anchored, between the first days of the months of May and November, north of a line ranging from the end of Atlantic depot wharf, to Little Hog Island; and between the first days of the months of November and May, north of a line ranging from the easterly corner of the coal-wharf of the Ocean Steam Navigation Company, to the westerly corner of the fort on Hog Island Ledge.

IV. No vessel, either inward or outward bound, shall be anchored in the channel of the harbor, or the channel to the Great Eastern wharves.

V. All vessels lying at anchor more than seven days, with their inward cargo on board, shall rig in their jib-booms, and keep them in while so remaining at anchor.

VI. No vessel shall be allowed to lay at the end of any wharf, or in any dock, in such manner as to obstruct the free passage of other vessels coming in

or going out, or being hauled from one wharf to another.

VII. All vessels at anchor in the harbor, shall keep a clear and distinct light suspended at least six feet above the deck, during the night.

VIII. No vessel shall, under any circumstances, be anchored in the track of the Ferry Boat, or so as to obstruct the passage of steamers to and from their respective places of landing.

Penalty for violation of preceding rules.

5. If any of the preceding rules shall be violated, the master or owner of the vessel, by means of which said violation shall occur, shall for each offense be subject to a penalty of twenty dollars.

Vessels anchored contrary to rules. Notice to be given to master, &c., of vessel.

6. If any vessel shall be anchored contrary to any of the rules prescribed in the preceding section, the harbor master shall forthwith give notice to the master or owner thereof, to remove said vessel at once; and if the same is not done without delay, or in case there is not a sufficient crew on board for that purpose, the harbor master shall cause such vessel to be removed at the expense of the owner or master therof. And if the master or owner shall neglect or refuse to pay said expense on demand being made therefor by the harbor master, he shall be liable to a penalty of double the amount of such expense, in addition to the penalty provided in the preceding section.

Vessels to be removed at owner's expense.

Penalties.

Hawkers and Pedlers.

Statutes.

1. Pedling forbidden, except by license, under penalty.
2. County commissioners may license. Disabled soldiers.
3. Rates,—non resident, wholesale, retail.
4. County commissioners to furnish blank licenses signed by them to clerk of courts.
5. Clerks to pay money received for licenses to State treasurer.
6. License to be exhibited when required; penalty for refusing.
7. Penalties, how recoverable.
8. Provisions respecting carriages.

Pedling forbidden, except by license, under penalty. R. S., 1871, c. 44, § 1.

1. No[1] person, except as hereinafter provided, shall travel from town to town, or place to place, in any town in this State, on foot, or by any kind of land or water conveyance, carrying for sale, or offering for sale, any goods, wares or merchandise, whole or by sample, under a penalty of not less than fifty nor more than two hundred dollars, and the forfeiture of all property thus unlawfully carried. But this provision shall not apply to commission merchants and commercial brokers, travelling from place to place in the city or town where they reside, and selling or offering to sell goods by sample or otherwise; nor to any citizen of this State[2] selling any fish, fruit, provisions, farming utensils or other articles lawfully raised or manufactured in this State.

Exceptions.

[1] This statute does not apply to goods forwarded from without the State upon the order of a purchaser, though such order was procured through an agent of the seller's who was unlawfully traveling and offering goods contrary to this provision. Whole statute discussed. Burbank *v.* McDuffee, 65 Maine, 135. See also Commonwealth *v.* Farnum, 114 Mass., 267.

[2] Similar statute pronounced constitutional. Commonwealth *v.* Ober, 12 Cushing, 493.

2. The county commissioners may license for the purpose aforesaid, any person who proves to their satisfaction that he sustains a good moral character, and has been five years a citizen of the United States, and such licenses shall expire one year from their date, and shall not be transferable; and the person receiving such license shall pay therefor to the county treasurers, if he is to sell or offer to sell by retail, ten dollars; if by wholesale twenty-five dollars; and said county treasurers shall pay all moneys received by them for such licenses into the treasury or the State; but soldiers of this State, disabled in the recent war of the rebellion, shall have their licenses free.

County Commissioners may license, and whom, and what paid. Ibid. § 2.

Disabled soldiers, licenses free.

3. Any person receiving a license under the provisions of section two, chapter forty-four of the Revised Statutes, shall, if he is not a resident of this State, or if he is acting as agent, clerk or servant of any person who is not a resident of this State, or corporation not located in this State, pay for such license, if he is to sell or offer to sell by retail, twenty-five dollars; if by wholesale, fifty dollars.

Rates of licenses for non-resident sellers; at retail, twenty-five dollars, at wholesale, fifty dollars. 1879, c. 116.

4. Said commissioners shall furnish the clerk of the court a sufficient number of blank licenses, signed by at least a majority of them, to meet all calls therefor; and they shall be charged to him, and he shall account therefor once in three months to said commissioners.

County commissioners to furnish blank licenses signed by them to clerk of courts. He to account for them once in three months. R. S., 1871, c. 44, § 3.

5. All moneys paid for such licenses, shall be paid to the clerk of the court, and by him paid to the State treasurer or deposited in the nearest bank, where State's funds are deposited, or such other place as is agreed upon with the State treasurer, once in three months, except fifty cents for each license, taking receipts therefor. Such receipts, licenses not issued, and fifty cents for each license issued and recorded, shall be allowed to such clerk by said commissioners on payment for signed licenses received by him.

Clerks to pay money received for licenses to State treasur. What to be allowed clerk by commissioners in payment. Ibid. § 4,

6. Every person who receives a license under this act, shall exhibit it at all times when required by any trial justice, constable or other peace officer, and upon refusal, he shall forfeit the sum of fifty dollars; and the carriages, goods, wares and merchandise of such person,

Licenses to be exhibited to magistrates, &c., when required; and penalty for refusal.

Seizure and sale of carriages, goods, &c., may be made upon complaint and conviction. Ibid. § 5.

which he is then and there employing under such license, upon complaint before any justice of a police or municipal court, or any trial justice in said county, may be seized on his warrent, and detained in the custody of the officer until payment of said penalty or the discharge of the accused; and if he is convicted and said property is not redeemed within twenty days thereafter, it shall be forfeited, and sold as if taken on execution, and the net proceeds distributed as hereinafter provided.

Penalties and forfeitures, how recoverable, and to whose use accruing.

7. Such penalties and forfeitures may be recovered by indictment, or by action of debt, in the name of the prosecutor, one-half to the use of the town where the offence is committed, and the other to his own use; and any trial justice or justice of police or municipal court, on complaint for a violation of this act, may issue his warrant and cause the arrest of the accused and the seizure of the property alleged to be forfeited, and if upon examination he shall find there is probable cause to believe that the person charged is guilty, he shall order him to recognize with sufficient sureties, to appear before the next supreme judicial court for said county, and in default thereof commit him, and order the detention of said property by the officer in whose custody it is, until trial in said court, and in cases of conviction said property shall be decreed forfeited to the uses aforesaid, and be sold as if taken on execution.

Arrests authorized, and recognizance for appearance before S. J. C. required. Commitment in case of default, and detention, forfeiture and sale of property. Ibid. § 6.

Provision respecting carriages. Ibid. § 7.

8. Every person licensed shall have painted on some conspicuous place on every carriage employed by him, in letters at least one inch wide, his name and the words, LICENSED BY C. C.

Hay.

Statutes.

1. Pressed hay in bundles to be branded; unless branded, forfeited.
2. Sworn weigher shall not purchase more hay than he needs.
3. Penalty for taking pressed hay on board vessels not branded.
4. City hay scales.

Ordinances.

1. Weighers of hay to be chosen. Their duty. Bonds to be given. Compensation.
2. Hay or straw not to be sold, unless weighed.
3. Weighing hay without authority. Penalty.
4. Fees for weighing.
5. Hay pressed, &c., need not be weighed,

Statutes.

Pressed hay shall be marked with name of person putting up same. R. S., 1871, c. 38, § 52, amended by 1874, c. 224.

1. All hay pressed and put up in bundles shall have written, printed or stamped on bands or boards made fast to the same, the first letter of the christian, and the whole of the surname of the person[1] putting up the same, and with the name of the state, and the place where such person lives. And any person offering for sale or shipment, any pressed hay not marked as aforesaid, shall be liable to a fine of one dollar for each bale so offered, to be recovered by complaint before any court of competent jurisdiction.

Weighers forbidden to deal in hay. Ibid.

2. No sworn weigher of hay shall purchase more hay than is necessary for his own use.

Penalty for taking unmarked hay on board vessels. Ibid.

3. If the master of any vessel takes on board pressed hay not marked as aforesaid, he shall forfeit one dollar for each bundle so received, to be recovered as in section fifty-two, chapter 224, Laws of 1874.

[1] See Pickard *v.* Bayley, 46 Maine, 200; Buxton *v.* Hamblen, 32 Maine, 448; Foye *v.* Southard, 54 Maine, 147.

See also "Weights and Measures."

City may keep scales and fix fees. R. S. 1871, c. 43, § 5.

4. Any city may purchase and keep for use scales for weighing hay and other articles, appoint weighers and fix their fees, to be paid by purchaser.

Ordinances.

Weighers of hay to be chosen. Their duty.

1. There shall be chosen annually, on the second Monday of the month of March, or as soon thereafter as may be, by the city council, one or more weighers of hay, who shall have the care and control of the city hay scales, and whose duty it shall be to weigh all hay and straw brought into the city of Portland for sale, and such other articles as may be offered to be weighed. They shall give bonds to the city in such sum as the mayor and aldermen may require, for the faithful performance of their duty, and shall conform to such regulations as may from time to time be adopted by the city council, and shall receive such compensation as they shall deem just and reasonable, to be paid out of the moneys received as fees for weighing hay and other articles.

Bonds to be given.

Compensation. Ord. Jan. 2, 1865, § 1, and Rev. Ord. 1868.

Hay or straw not to be sold without being weighed. Penalty.

Ibid. § 2.

2. No person shall sell or offer for sale any hay or straw without having the same weighed by the city weigher of hay, and a ticket signed by said weigher certifying the quantity each load, bale or parcel contains, on penalty of forfeiting the hay or straw so sold or offered for sale to the use of the city; or the owner or driver of such hay or straw shall forfeit and pay, to the use of the city, a sum not less than five dollars for each load of hay or straw sold or offered for sale without having complied with the provisions of this ordinance, at the discretion of the court before whom such case may be tried.

Weighing hay without authority.

3. Any person not authorized as a weigher of hay in accordance with the provisions of the first section of this ordinance, who shall weigh any hay or straw brought into this city for sale or shall permit or allow such hay or straw to be weighed upon any

scales belonging to him or them, shall forfeit and pay a sum not exceeding twenty dollars to the use of the city. Penalty. Ibid. § 3.

4. The weigher of hay shall be allowed to demand and receive from any person offering any hay, straw, or other article to be weighed upon the city hay scales, the sum of thirty cents for each load or other article so weighed, which sum shall include the weighing of the cart, wagon or other vehicle upon which a load has been weighed by said weigher. Fees for weighing. Ibid. § 4.

5. The provisions of this ordinance shall not apply to hay pressed and put up into bundles or bales, as required by law, intended for shipment or for sale without being re-weighed in this city. Hay pressed and in bundles need not be weighed. Ibid. § 5.

Health.

Statutes.

CONTAGIOUS DISEASES.

1. Precautions against infected persons; duty of municipal officers.
2. Precautions against persons arriving from infected places.
3. Restrictions on such persons; may be removed if refractory; penalty if they return.
4. Precautions authorized in border towns.
5. Process for removal or separate accommodation of infected persons.
6, 7. Process for securing infected articles.
8. Powers of officers in executing such process.
9. Expenses, how paid.
10. Compensation for men or property impressed.
11. Adjournment of courts because of danger from infection.
12. Removal of infected prisoners from places of confinement.
13. Order for removal, how returned. Such a removal not an escape.
14. Health committee, how chosen; their duties.
15. If no committee chosen, selectmen to perform the duties.
16. May order removal of private nuisances; proceedings thereon.
17. Masters, &c., of vessels may be examined on oath in certain cases.
18. Vessels with infected persons to anchor at a distance from towns.
19. Penalty for violation of this provision.
20. Selectmen may establish quarantine regulations. Penalty for breach thereof.
21. Duty of pilots to give notice thereof.
22. Punishment for violation or evasion of quarantine, after notice.
23. Selectmen to furnish signals, to be kept hoisted by master. Restriction of persons visiting vessels at quarantine.
24. Health committee may exercise authority of selectmen relating to quarantine.
25. Quarantine expenses, how paid.
26. Hospitals may be established. Restrictions as to location thereof.

27. Restrictions on inoculation with the small pox.
28. Physicians and others liable to hospital regulations.
29. Hospitals to be provided on breaking out of infectious diseases; regulations.
30. Precautions to prevent the spread of such diseases.
31. Penalty for violation of hospital regulations by persons subject thereto.
32. Householders and physicians to give notice of infectious diseases under their care.
33. Forfeitures, how recovered and appropriated.
34. Towns may choose a board of health; their powers and duties.
35. Vaccination, free.
36. By-laws may be established.

UNWHOLESOME PROVISIONS AND DRINKS.

37. Selling unwholesome provisions and drinks, &c.
38. Adulterated sugar and molasses not to be sold.
39. Vinegar, manufacturing and selling impure.
40. Lead-poison vinegar, penalty for selling.
41. Vinegar, inspectors of.
42. Fresh meat and fish, sale of, regulated. Penalties.

CONTAGIOUS DISEASES AMONG CATTLE.

43. Infected cattle to be isolated. Maintenance. Owners must isolate them, when.
44. Animals to be examined. May be killed, when.
45. Cattle killed to be appraised.
46. Further powers to city officers.
47. Passage of animals, how regulated.
48. Regulations to be recorded and published.
49. Sale of infected animals prohibited. Penalty.
50. Disobedience of orders of mayor, &c., how punished.
51. Knowledge, &c., of disease to be reported. Failure, how punished.
52. Neglect, &c., of officers, penalty for.
53. Appraisals, how made; to whom certified.
54. Further powers of cities. Amount of appraisal, how paid. Owner dissatisfied, his remedy. Amount to be reimbursed.
55. Notice to governor, &c.
56. Commissioners may be appointed; powers of, &c.
57. Regulations by comissioners to supersede others. Municipal authorities to enforce directions of commissioners.
58. Glanders.
59. Medical act. Disposition of dead bodies.

60. Man's consent to anatomical use of his body.
61. Medical school has body under some circumstances.
62. Notice to municipal officers.
63. Duty of medical school.
64. Claim of family or next of kin.
65. Penalty for violation of this act.

Ordinances.

1. Mayor and aldermen constitute board of health.
2. City marshal to execute health laws.
3. City and consulting physicians.
4. Duty of city physicians.
5. " " consulting physicians.
6. No filth to be thrown in streets.
7. Penalty.
8. Who may remove filth.
9. Neglect to remove nuisances after notice.
10. Penalty.
11. Vaults, &c., restriction upon erection. Proviso.
12. Fresh fish, where sold.
13. Same subject.
14. Offensive substances not to be thrown into wells.
15. Unwholesome provisions not to be sold.
16. Regulations respecting hog-sties. Penalty.
17. House offal.
18. City cart to collect offal.
19. Mayor and aldermen to appoint person to have charge of cart.
20. Offal to be delivered to person appointed. Penalty.
21. No other person to collect offal. Penalty.
22. Vaults, &c., in unhealthy condition to be cleansed.
23. Persons in tenements, where too numerous, or unprovided with vaults, may be removed. Penalty.
24. Hides or leather not to be exposed in streets. Penalty.
25. Harbor master and city physician, duty of, in relation to quarantining vessels.
26. Privy vaults, emptying.
27. " " persons licensed to clean.
28. " " Bond.
29. " " Cart.
30. " " Permit.
31. " " time of empyting.
32. " " Penalty.
33. " " Repeal by former ordinances.

INTERMENT OF THE DEAD.

34. Superintendent of burials. Authority. Subject to regulations of mayor and aldermen.

35. Superintendent to be chosen annually. To give bonds and be sworn.
36. His duties.
37. Superintendent to have care of funeral cars.
38. Undertakers to be appointed and licensed. May employ porters. May be removed. Penalty for acting as undertakers without license.
39. No interment to be made without license. What time interments may be made.
40. Undertaker's fees.
41. Depth of graves.
42. No body of deceased persons to be removed out of city for interment without permission. Superintendent to attend to removal.
43. Undertakers to make returns.
44. Bodies not to be removed from graves without permit.
45. " when to be removed from city tomb.
46. Superintendent to remove bodies.
47. Bodies not to be interred in city cemeteries, except, &c.
48. Mayor and aldermen may close tombs.
49. " " may make regulations respecting interments.
50. Hack drivers forbidden to transport bodies.
51. Penalties.

Statutes.

CONTAGIOUS DISEASES.

Precautions against infected persons. R. S., 1871, c. 14, § 1.

1. When any person is, or has recently been infected with any disease or sickness dangerous to the public health, the municipal officers of the town where he is, shall provide for the safety of the inhabitants, as they think best, by removing him[1] to a separate house, if it can be done without great danger to his health, and by providing nurses and other assistants and necessaries, at his charge or that of his parent or master, if able, otherwise that of the town to which he belongs.

Precautions against persons arriving from infected places. Ibid. § 2.

2. When any infectious or malignant distemper is known to exist in any place out of the State, the municipal officers of any town in the State, by giving public notice therein, as they find convenient, may require any person coming from such place to inform one

[1] Such expenses must be borne by town. Kennebunk *v.* Alfred, 19 Maine, 221; Orono *v.* Peavey, 66 Maine, 60. See also Haverly *v.* Bass, 66 Maine, 71.

of them or the town clerk of their arrival and from what place; and if he does not, within two hours after his arrival, or after actual notice of such requirement, give such information, he shall forfeit one hundred dollars to the use of the town.

Restrictions on such persons; may be removed if refractory.

3. Said officers may prohibit a person, required to give such information, from going to any part of their town where they think his presence would be unsafe for the inhabitants; and if he does not comply, they may order him, unless disabled by sickness, forthwith to leave the State in the manner and by the road they direct; and if he neglects or refuses so to do, any justice of the peace in the county, on complaint of either of said officers, may issue his warrant to any proper officer or other person named therein, and cause him to be removed out of the State; and if during the prevalence of such distemper, in the place where he resides, he returns to any town in this State without the license of the municipal officers thereof, he shall forfeit not exceeding four hundred dollars.

Penalty if they return. Ibid. § 3.

Precautions authorized in border towns. Ibid. § 4.

4. The municipal officers of any town near to or adjoining the line of the State, may appoint by writing under their hands, suitable persons to attend at any places by which travelers may pass into such town from infected places in other States or Provinces, who may examine such passengers, as they suspect of bringing with them any infection dangerous to the public health, and if need be, may restrain them from travelling until licensed thereto by a justice of the peace in the county, or one of said officers; and any such passenger who without such license travels in this State, except to return by the most direct way to the State or Province whence he came, after he has been cautioned to depart by the persons so appointed, shall forfeit not exceeding one hundred dollars.

Process for removal or separate accommodation of infected persons. Ibid. § 5.

5. Any two justices of the peace may issue a warrant, directed to a proper officer, requiring him to remove any person infected with contagious sickness, under the direction of the municipal officers of the town where he is; or to impress and take up convenient houses,

lodgings, nurses, attendants, and other necessaries for the accommodation, safety and relief of the sick.

Process for securing infected articles. Ibid. § 6.

6. When, on the application of the municipal officers of a town, it appears to any justice of the peace that there is just cause to suspect that any baggage, clothing or goods of any kind within such town, are infected with any malignant contagious distemper, by a warrant directed to a proper officer, he shall require him to impress so many men, as the justice thinks necessary, to secure such infected articles, and to post said men as a guard over the house or place where the articles are lodged, who shall prevent any person's removing or coming near such articles, until due inquiry is made into the circumstances thereof.

Justice may by warrant require officers to cause them to be removed to suitable places. Ibid. § 7.

7. He may by the same warrant, if it appears to him necessary, require said officers, under the direction of the municipal officers, to impress and take up convenient houses or stores for the safe keeping of such infected articles, and cause them to be removed thereto, or otherwise detained, until the municipal officers think they are free from infection.

Powers of officers in executing such process. Ibid. § 8.

8. Said officers, if need be, may break open any house, shop, or other place mentioned in the warrant where infected articles are, and require such aid as is necessary to execute it; and all persons at the command of either of said officers, under a penalty of not exceeding ten dollars, shall assist in such execution.

Expenses, how paid. Ibid. § 9.

9. The charges of securing such infected articles and of transporting and purifying them shall be paid by the owners thereof, at the price determined by the municipal officers.

Compensation for men or property impressed. Ibid. § 10.

10. When the officer impresses or takes up any houses, stores, lodging, or other necessaries, or impresses any man, as herein provided, the parties interested shall have a just compensation therefor, to be paid by the town in which such persons or property were impressed.

Adjournment of courts because of danger from infection. Ibid. § 11.

11. When a malignant infectious distemper prevails in any town wherein the supreme judicial court or court of county commissioners is to be held, said courts may be adjourned and held in any town in said county, by pro-

clamation made in such public manner as the courts judge best, as near their usual place of meeting as they think safety permits.

Removal of infected prisoners from places of confinement. Ibid. § 12.

12. When any person in a jail, house of correction, or workhouse, is attacked with any disease, which the municipal officers of his town, by medical advice, consider dangerous to the safety and health of other prisoners, or of the inhabitants of the town, they shall, by their order in writing, direct his removal to some place of safety, there to be securely kept and provided for until their further order; and if he recovers from such disease, he shall be returned to his place of confinement.

Order for removal, how returned. Such removal not an escape. Ibid. § 13.

13. If he was committed by order of a court or under a judicial process, the order for his removal, or a copy thereof attested by the municipal officers, shall be returned by them with the doings thereon into the office of the clerk of the court from which such order or process was issued. No such removal shall be deemed an escape.

Health committee, how chosen; their duties. Ibid. § 14.

14. A town at his annual meeting, may choose a health committee of not less than three nor more than nine, or one person to be a health officer; who shall remove, at the expense of their town, all filth found in any place[1] therein, which, in their judgment, endangers the lives or health of any inhabitant; and require the owner or occupant, when they think necessary, to remove or discontinue any drain or other source of filth.

If no committee chosen, municipal officers to perform the duties. Ibid. § 15.

15. If any town, at its annual meeting, omits to choose such committee or officer, the municipal officer shall be a health committee, and have all their powers and perform all their duties.[2]

May order removal of private nuisances; proceedings thereon. Ibid. § 16.

16. When any source of filth, or other cause of sickness, is found on private property, the owner or occupant thereof shall, within twenty-four hours after notice from the said committee or officer, at his own expense, remove or discontinue it; and if he neglects or unreasonably

[1] In order to amount to a nuisance it is not necessary that there should be actual corruption of the atmosphere. It is enough if effluvia is offensive, and renders habitations uncomfortable. Wesson *v.* Iron Co., 13 Allen, 95.

[2] Full discussion of what makes a nuisance and of power of town authorities, in Baker *v.* Boston, 12 Pick., 184; Norcross *v.* Thomas, 51 Maine, 503; Swett *v.* Sprague, 55 Maine, 190; Wightman *v.* Bristol, 65 Maine, 426.

delays to do so, he shall forfeit not exceeding one hundred dollars; and said committee or officer shall cause said nuisance to be removed or discontinued; and all expenses thereof shall be repaid to the town by such owner or occupant, or by the person who caused or permitted it.

Masters, &c., of vessels may be examined on oath in certain cases.

17. If a master, seaman, or passenger of a vessel, in which there is any infection, or has lately been, or is suspected to have been, or which has come from a port where any infectious distemper prevails, dangerous to the public health, refuses to answer, on oath, such questions as are asked him relating to such infection or distemper, by the municipal officers of the town to which such vessel comes, which oath either of said officers may administer, he shall forfeit not exceeding two hundred dollars, or be imprisoned not more than six months.

Ibid. § 17.

Vessels with infected persons to anchor at a distance from towns.

18. When a vessel arrives at a port in this State, having on board any person infected with a malignant disease, the master, commander, or pilot thereof shall anchor it at some convenient place below the town of such port, at a distance safe for the inhabitants thereof and the persons on board other vessels in the port; and no person or thing on board shall be brought on shore, until the municipal officers give their written permit therefor.

Ibid. § 18.

Penalty for violation of this provision.

19. For the wilful violation of the provisions of the preceding section, such master or commander shall forfeit not exceeding two hundred, and the pilot not exceeding fifty dollars for each offense.

Ibid. § 19.

Selectmen may establish quarantine regulations.

20. The municipal officers of a seaport town may cause any vessel arriving there to perform quarantine at such place and under such regulations as they may judge expedient, when they think the safety of the inhabitants requires it; and whoever neglects or refuses to obey such orders and regulations, shall forfeit not exceeding five hundred dollars, or be imprisoned not exceeding six months.

Penalty for breach thereof.

Ibid. § 20.

Duty of pilots to give notice thereof.

21. When such officers of a seaport town think it necessary to order all vessels, arriving there from any particular port or ports, to perform quarantine, they shall give notice thereof to the pilots of their port; who shall make it known to the master of all vessels which they

Ibid. § 21.

board. If any pilot neglects to do so, or contrary thereto pilots any vessel up to said seaport town, he shall forfeit not exceeding one hundred dollars.

Punishment for violation or evasion of quarantine after notice.
Ibid. § 22.

22. When the master or commander of a vessel takes it up to any seaport town, after notice that a quarantine has been so directed for all vessels coming from the port or place whence his vessel sailed, or by false declarations, or otherwise, fraudulently attempts to elude such directions; or lands or suffers to be landed from his vessel any person or thing, without permission of the municipal officers, he shall be punished as provided in section twenty.

Municipal officers to furnish signals.

23. The municipal officers of every seaport town requiring vessels to perform quarantine shall provide, at the expense of such town, a suitable number of red flags at least three yards in length; and the master of every vessel ordered to perform quarantine shall cause one of them to be continually kept, during the term thereof, at the head of the mainmast of his vessel; and no person shall go on board such vessel during said term unless by permission of said officers; if he does, he shall be thereafter held liable to the same regulations and restrictions as those belonging to said vessel; and shall there be detained by force, if necessary, until duly discharged by said officers.

Restrictions of persons visiting vessels at qurantine.
Ibid. § 23.

Health committee may exercise authority of selectmen, relating to quarantine.
Ibid. § 24.

24. In every seaport town where there is a health committee or officer, he may perform all the duties and exercise all the authority of the municipal officers in requiring vessels to perform quarantine.

Quarantine expenses, how paid.
Ibid. § 25.

25. All expenses incurred on account of any person, vessel, or goods, under quarantine regulations, shall be paid by him, or the owner of the vessel, or goods, as the case may be.

Hospitals may be established.

26. A town may establish therein one or more hospitals for the reception of persons having the small pox or other disease dangerous to the public health; or its municipal officers may license any building therein as a hospital, to be under the control of said officers; but no such hospital shall be within one hundred rods of an inhabited dwelling house in an adjoining town without the consent of its municipal officers.

Restrictions as to location.
Ibid. § 26.

27. If any person inoculates himself or any other person, or suffers himself to be inoculated with the small pox, unless at some lawful hospital, he shall forfeit not exceeding one hundred dollars for each offense.

Restrictions on inoculation with the small pox.
Ibid. § 27.

28. When a hospital is so established or licensed, the physician, the persons inoculated or sick therein, the nurses, attendants, and all persons who come within its limits, and all furniture or other articles used or brought there, shall be subject to the regulations made by the municipal officers.

Physicians and others liable to hospital regulations.
Ibid. § 28.

29. When[1] the small pox or any other disease dangerous to the public health breaks out in a town, the municipal officers shall immediately provide such hospital or place of reception for the sick and infected, as they judge best for the accommodation and safety of the inhabitants; and such hospitals and places shall be subject to their regulations the same as established hospitals; and they shall cause such sick and infected to be removed thereto, unless their condition will not admit of it without immediate danger; in that case, the house or place where the sick is, shall be deemed a hospital for every purpose aforesaid; and all persons residing in or in any way concerned with it shall be subject to hospital regulations.

Hospitals to be provided on breaking out of infectious diseases; regulations.
Ibid. § 29.

30. When any disease dangerous to the public health exists in a town, the municipal officers shall use all possible care to prevent its spread and to give public notice of infected places to travelers, by displaying red flags at proper distances, and by all other means most effectual, in their judgment, for the common safety.

Precautions to prevent the spread of such diseases.
Ibid. § 30.

31. If any physician or other person in such hospitals or places of reception, attending, approaching, or concerned therewith, violates any lawful regulation in relation thereto, with respect to himself or his or another's property, he shall forfeit not less than ten, nor more than one hundred dollars for each offense.

Penalty for violation of hospital regulations by persons subject thereto.
Ibid. § 31.

32. When a householder or physician knows that a person under his care is taken sick of any such disease, he shall immediately give notice thereof to the municipal

Householders and physicians to give notice of infectious diseases under their care.
Ibid. § 32.

[1] For duty of physician and town authorities, see Seavey *v.* Preble, 64 Maine, 120.

officers of the town where such person is; and if he neglects it he shall forfeit not less than ten, nor more than thirty dollars.

Forfeiture, how recovered and appropriated. Ibid. § 33.

33. All forfeitures mentioned in the preceding sections, except otherwise provided, shall inure to the use of the town where the offense is committed.

BOARD OF HEALTH.

Towns may choose a board of health; their powers. Ibid. § 34.

34. A town may choose a board of health of not less than three nor more than nine persons, who shall have all the powers, and be subject to all the duties, restrictions, liabilities, and penalties of the municipal officers, and health committee or officer.

Free vaccination. 1873, c. 149.

35. The mayor and aldermen of any city, and the selectmen of any town or plantation, shall annually, on the first of March, in each year, or oftener as they may deem prudent, provide for the free vaccination with the cow pox, of all the inhabitants over two years of age, within their respective localities, the same to be done under the care of skilled practising physicians, and under such circumstances and restrictions as the said authorities may adopt for the effectual vaccination of said inhabitants.

By-laws may be established. R. S., 1871, c. 14, § 36.

36. Towns may establish by-laws for the preservation of health, and for protection against infectious diseases.

UNWHOLESOME PROVISIONS AND DRINKS.

Selling unwholesome provisions and drinks. Penalty for selling veal of a calf less than four weeks old. R. S., 1871, c. 128, § 1.

37. Whoever sells any diseased, corrupted, or unwholesome provision for food or drink, knowing it to be such, without informing the buyer; or fraudulently adulterates, for the purpose of sale, any substance intended for food, or any wine, spirits or other liquors intended for drink, so as to render them injurious to health, shall be punished by imprisonment not more than five years, or by a fine not exceeding one thousand dollars; and whoever knowingly sells or offers for sale as food any veal killed before the calf was four weeks old, without informing the buyer, shall be punished by a fine of not more than twenty dollars, or by imprisonment not more than thirty days.

38. No person shall knowingly, or wilfully or maliciously sell or offer, or expose for sale, within this state, any

sugar, refined or not, or any molasses, which has been adulterated with salts of tin, terra alba, glucose, dextrine, starch sugar, or other preparations from starch. No person shall adulterate any sugar or molasses within this state. Any person guilty of violations of these provisions shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not more than one year.

Adulterated sugar and molasses not to be sold.
Punishment.
1879, c. 93.

39. Whoever manufactures for sale, or knowingly offers or exposes for sale, or knowingly causes to be branded or marked as cider vinegar, any vinegar not the legitimate product of pure apple juice, known as apple cider, and not made exclusively of said apple cider, but into which any foreign substances, ingredients, drugs or acids have been introduced, as shall appear by proper tests, shall, for each such offense, be punished by a fine of not less than fifty nor more than one hundred dollars.

Manufacturing or selling impure vinegar.
1881, c. 6, § 1.

40. Whoever manufactures for sale, or knowingly offers or exposes for sale, any vinegar found upon proper tests, to contain any preparation of lead, copper, sulphuric acid, or other ingredient injurious to health, shall, for each such offense, be punished by a fine of not less than one hundred dollars.

Poison vinegar, lead.
Ibid. § 2.

41. The mayor and aldermen of cities shall, and the selectmen of towns may, annually appoint one or more persons to be inspectors of vinegar, for their respective places, who shall, before entering upon their duties, be sworn to the faithful discharge of the same.

Inspectors of vinegar.
Ibid. § 3.

SALE OF MEATS AND FISH.

42. Any city may establish localities for, and regulate the sale of fresh meat and fish, therein, and fix penalties for breach thereof.

Fresh meat and fish, cities have power to regulate sale of, &c.
R. S., 1871, c. 3, § 40.
Penalties.

CONTAGIOUS DISEASES AMONG CATTLE.

43. The municipal officers of cities in case of the existence in this State of the disease called lung murrain or pleuro pneumonia, or any other contagious disease among cattle, shall cause the cattle in their respective cities which are infected, or which have been exposed to

Cattle infected by contageous disease to be isolated.
R. S., 1871, c. 14, § 37.

infection, to be secured or collected in some suitable place or places, within such city, and kept isolated; and when taken from the possession of their owners, one-fifth is to be paid by the city wherein the animal is kept, and four-fifths at the expense of the State; such isolation to continue so long as the existence of such disease or other circumstances render it necessary, or they may, direct the owners thereof to isolate such cattle upon their own premises, and any damage or loss sustained thereby shall be paid as aforesaid.

Maintenance.

Owners may be directed to isolate infected cattle.

Animals to be examined.
Ibid. § 38.

44. The municipal officers shall, within twenty-four hours after they have notice of the existence of such disease, or have reason to believe it exists, cause the suspected animals to be examined by a veterinary surgeon or physician, by them selected, and if they be adjudged to be diseased, they may at their discretion, order them to be forthwith killed and buried at the expense of such town.

Infected cattle may be killed if necessary.

Cattle killed to be appraised.
Ibid. § 39.

45. The mayor and aldermen shall cause all cattle which they shall so order, to be killed, to be appraised by three competent and disinterested men, under oath, at the value thereof at the time of appraisal and the amount of the appraisal shall be paid as above provided.

Further powers to city officers.
Ibid. § 40.

46. They may prohibit the departure of cattle from any enclosure, and exclude cattle therefrom.

Passage of animals, how regulated.
Ibid. § 41.

47. They may make regulations in writing to regulate or prohibit the passage from, to or through their respective cities or from place to place therein, of any neat cattle, and may arrest and detain, at the cost of the owners thereof, all cattle found passing in violation of such regulations, and may take all other necessary measures for the enforcement of such prohibition, and for preventing the spread of any such disease among the cattle in the towns and cities, and the immediate vicinity thereof.

Regulations to be recorded and published.
Ibid. § 42.

48. Such regulations shall be recorded in the records of their towns, and shall be published in these towns in such manner as such regulations provide.

Sale of infected animals prohibited.

49. Any person who sells or disposes of any animal which is infected or known to have been exposed to infec-

tion within one year after such exposure without the knowledge and consent of the municipal officers, shall be punished by fine not exceeding five hundred dollars or by imprisonment not exceeding one year. Ibid. § 43. Penalty.

50. Any person disobeying the orders of said municipal officers and aldermen, made in conformity with the fortieth section of chapter 14, R. S., 1871, or driving or transporting any neat cattle contrary to the regulations made, so recorded and published as aforesaid, shall be punished by fine not exceeding five hundred hollars or by imprisonment not exceeding one year. Disobedience of orders of mayor and aldermen. Ibid. § 44. —how punished.

51. Whoever knows or has reason to suspect the existence of any fatal, contagious disease among the cattle in his possession or under his care, shall forthwith give notice to the municipal officers of the city where such cattle may be kept, and for failure so to do, shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year. Knowledge or suspicion of disease to be reported. Ibid. § 45. Failure, how punished.

52. Any town whose officers shall neglect or refuse to carry into effect the above provisions, shall forfeit a sum not exceeding five hundred dollars for each day's neglect. Neglect or refusal of city officers to comply. Ibid. § 46. —penalty for

53. All appraisals made under the provisions of this act shall be in writing and signed by the appraisers, and the same shall be certified to the governor and council and to the treasurer of the towns wherein the cattle appraised belong, by the municipal officers. Appraisals, how made. Ibid. § 47. —to whom certified.

54. The municipal officers of towns may, when they deem it necessary to carry into effect the purposes of this act, take and hold possession for a term not exceeding one year within their respective towns, of any land, without buildings other than barns thereon, for enclosing and isolating any cattle; and they shall cause the damages sustained by the owners in consequence thereof, to be appraised by the assessors thereof, and they shall further cause a description of such land, setting forth the boundaries thereof, and the area as nearly as may be estimated, together with said appraisal, to be entered upon the records of the town. The amount of said appraisal shall be paid as provided in the thirty-seventh section of said chapter, in such sums and at such times as they may order. If Further powers of cities. Ibid. § 48. Amount of appraisal, how paid.

Owner dissatisfied, may maintain action.

Amount to be reimbursed.

such owner is dissatisfied with the appraisal, he may in an action of the case recover from the town or city wherein the lands lie, a fair compensation for the damages sustained by him; but no costs shall be taxed, unless the damages recovered in such action, exclusive of interest, exceed the appraisal of the assessors. And the State shall reimburse any town four-fifths of any sum recovered of such city in any such action.

Notice to governor and secretary of board of agriculture.

Ibid. § 49.

—to commissioners in certain cases.

55. Whenever such disease exists in any town, the municipal officers shall forthwith give notice thereof to the governor and secretary of the board of agriculture; but if commissioners have been appointed as hereinafter provided, such notice shall be given to them.

Commissioners may be appointed.

—powers of

Ibid. § 50.

56. The governor may, when he deems it expedient, appoint commissioners who shall have full power to make all necessary regulations, and to issue summary orders relative thereto, for the treatment and the extripation of any contagious disease among cattle, and may direct the municipal officers to enforce and carry them into effect; and any such officer or other person refusing or neglecting to enforce, carry out and comply with any regulation of the commissioners shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding one year for every such offence.

—neglect or refusal to obey.

—how punished.

Regulations made by commissioners to supersede all others.

Ibid. § 51.

57. When said commissioners shall make and publish any regulations, such regulations shall supersede the regulations made by the municipal officers during the time those made by the commissioner are in force.

City authorities to enforce directions of commissioners.

1879, c. 147.

Glanders.

58. The above sections relating to contagious diseases among cattle are made to fully apply to horses affected with glanders or any other contagious disease.

Act for promotion of medical science.

1881, c. 93.

59. Whoever willfully and knowingly shall have in his possession, for anatomical purposes, the body or any part thereof, of any person dying within this State, unless the same shall be obtained in the manner provided by section two of chapter thirteen of the revised statutes, or in the manner provided by this act, shall be punished by imprisonment of not more than five years, or by fine not exceeding three thousand dollars.

Having bodies unlawfully in possession.

Penalty.

Consent to use of body for anatomical science. Ibid. § 2.

60. If any person, a resident of this State, requests or consents during his life that his body, may be delivered to a regular physician or surgeon, for the advancement of anatomical science, after his death, it may be used for that purpose, unless some kindred or family connection makes objection.

Body for medical school. Ibid. § 3.

61. The body of any person dying in this State, which shall not be claimed, reasonable notice being given for burial by the family or next of kin of such person, shall be subject to the use of the medical school of Maine, for anatomical purposes, as hereinafter provided, and if, at at any time said school shall receive a greater number of bodies than it needs for the instruction of its students, it shall be authorized to deliver the excess to any regular physician or surgeon, for the same purpose in this State.

Notifications to municipal officers, &c. Ibid. § 4.

62. Persons having the care of such bodies shall forthwith notify the municipal officers of the town in which such bodies are, and upon the reception of such notice the municipal officers of such town shall immediately notify, by mail or otherwise, the officers of the medical school of Maine, and such notice shall state the age and sex of the deceased, and the cause of death, if known, and, on request of the officers of said school, if made within two days after receiving such notice, said municipal officers shall deliver such bodies to such officers, or to any regular physician or surgeon by them designated to receive the same; but before receiving any such body, said medical school, physician or surgeon, shall give bond to the treasurer of such town, as provided in section two of chapter thirteen of the revised statutes. Any person who shall knowingly violate the provisions of this section shall forfeit the sum of thirty dollars, to be recovered by an action of debt, one-half to the use of the prosecutor, and one-half to the use of said medical school of Maine.

Duty of medical school. 1881, c. 94.

63. Whenever the body of any person dying in this state, shall come into the possession of the officers of the medical school of Maine under the provisions of an act entitled, "An Act for the promotion of Medical Science,"

[1] Inconsistent acts repealed in § 5.

it shall be the duty of the secretary of the faculty of said school, to cause such body to be embalmed without delay, and preserved without dissection for thirty days. And in case the name of said subject is unknown, the same shall be identified by a sufficient description, which shall be recorded by the secretary, in a book kept for that purpose, and which shall be open to public inspection.

Claim of family or next of kin. Ibid. § 2.

64. Any of the family or next of kin of such subjects, may claim said subjects for burial within said thirty days, and the same shall be delivered to them for said purpose on demand.

Penalty. Ibid. § 3.

65. Any violation of the provisions of this act, shall be punished by a fine not exceeding one thousand dollars.

Ordinances.

Mayor and and aldermen shall constitute the board of health. Rev. Ord. 1868.

1. The mayor and aldermen shall constitute the board of health of the city for all purposes, and shall exercise all the powers vested in, and shall perform all the duties prescribed to the health committee and selectmen of towns of this State, subject only to any limitations contained in the ordinances, regulations, and orders of the city council.

Execution of health laws and ordinaces committed to city marshal. Ibid.

2. The execution of the laws and ordinances relating to the subjects of internal and external health, shall be under the superintendence of the city marshal and his deputies, and it shall be their duty, and they and each of them shall have the power to enforce all laws, ordinances, regulations and orders relating to causes of sickness, nuisances and sources of filth, existing within the city, within the harbor, or in any vessel within said harbor, or on any island, subject always to the direction, authority and control of the mayor and aldermen.

City physician and consulting physicians. Ibid. as amended by city charter, § 6.

3. The city council shall annually, on the second Monday in the month of March, or soon thereafter as may be, make choice of a city physician, and three consulting physicians of regular standing.

4. It shall be the duty of the city physician to give his professional attendance and services at the alms house, at the city hospital, and elsewhere, for patients under the care or at the charge of the city, whenever thereunto required by the overseers of the poor, master of the alms house, or mayor. Duty of city physician. Rev. Ord. 1868.

5. It shall be the duty of the consulting physicians in case of alarm of any contagious or other dangerous disease occuring in the city or neighborhood, to give the mayor or to either board of the city council, all such professional advice and information as they may request, with a view to the prevention of such disease, and at all convenient times when requested, to aid and assist them with their council and advice in all matters that relate to the preservation of the health of the inhabitants. Duties of consulting physicians. Ibid.

6. No person shall throw or deposit, or cause to be thrown or deposited, in any street, court, square, lane, alley, or public place, any saw dust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster, clam or lobster shells, waste or dirty water, or any animal, vegetable or offensive matter whatever. Nor shall any person or persons throw or cast any dead animal, or any foul or offensive matter in any dock or place between the channel and the shore, nor shall land any foul or offensive animal or vegetable substance within the city, nor shall cast any dead animal in the waters of the harbor or back cove. No filth shall be thrown into streets. Ibid.

7. If any of the substances mentioned in the preceding section, shall be thrown or carried into any street, lane, alley, court, square or public place, from any house, wood-house, shop, cellar, yard, or any other place, the owner or occupant of such house or place, and the person who actually threw and carried the same therefrom, shall severally be held liable for such violation of this ordinance, and all Penalty.

such substances shall be removed at the expense of the owner or occupant of the house or other place, whence the same were thrown or carried, within two hours after personal notice in writing to that effect given by the mayor, any alderman, the city marshal or deputy, or any health officer, duly appointed by the city council.

Filth, &c., may be removed by order of mayor, aldermen, or marshal.

Ibid.

8. All dirt, saw dust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster, clam, or lobster shells, or any animal or vegetable substance, or filth of any kind, in any house, warehouse, cellar, yard, or other place which the mayor, any alderman, city marshal or deputy, or health committee or officer, shall deem necessary for the health of the city to be removed, shall be carried away therefrom, by and at the expense of the owner or occupant of such house or other place where the same shall be found, and removed to such place as shall be directed, within four hours after notice in writing to that effect, given by the mayor, any alderman, city marshal, deputy, or health officer.

In case of neglect to remove nuisances after notice.

Ibid.

9. Whenever any person shall have been duly notified to remove any nuisance, or to perform any other act or thing which it may be his duty to perform for the preservation of the health of the city, and the time limited for the performance of such duty shall have elapsed, without a compliance with such notice, the city marshal shall forthwith cause such nuisance to be removed at the expense of the person so notified. And the mayor shall cause all persons who shall violate or disobey the health laws or regulations, to be forthwith prosecuted and punished. And if, in the opinion of the mayor and aldermen, or the city marshal, or deputy, it shall be for the health or comfort of the inhabitants of the city that any particular nuisance should be removed

forthwith and without delay, it shall be their duty to cause the same to be removed accordingly. And if the said nuisance existed in violation of this ordinance, or of any of the laws, regulations, or ordinances relating to the health of the city, then the expense of removing the same shall be paid by the owner or occupant of the house or other place where the same was found, and if payment be refused on demand thereof, by the city marshal, it shall be sued for in the name of the city.

Penalty.

10. Any person offending against the provisions of the preceding sections, shall forfeit and pay not less than one dollar nor more than twenty dollars for every offense; also the sum of one dollar for every hour that the nuisances or substances mentioned in the previous section of this ordinance are suffered to remain after due notice thereof.

Ibid.

Building of privy vaults. Ord. July 1, 1878.

11. If any person shall erect or set up, or cause to be erected or set up, or shall continue any necessary or privy within nine feet of any street, lane or alley, court, square or public place, or within a like distance of any adjoining lot, dwelling house, shop or well, or any public building, such person shall forfeit and pay five dollars, and a further penalty of five dollars for every month the necessary or privy shall continue and so remain.

See §§ 26 *et seq.* *post.*

Provided, That these penalties shall not be incurred in any case where there is a necessary or privy already erected, or where one may hereafter be erected with a vault under such necessary, the size of which shall not be less than six feet deep and contain not less than one hundred and twenty-eight cubic feet, and enclosed with bricks well laid in water-proof cement.

This ordinance shall effect on approval.

12. Fresh fish may be sold in any part of the city below high water mark; and no person shall sell

Fresh fish, where sold. Ord., Feb. 17, 1863, and Rev. Ord. 1868.

fresh fish in any other part of the city, except as hereinafter provided, under a penalty of five dollars for each offence. But the mayor and aldermen may assign places for selling the same *above* high water mark, under section second of chapter twenty-one of the revised statues of 1857, or other like statutory provisions, and under such rules and regulations as said board may, from time to time, prescribe. Before, however, any place shall be so assigned, a written petition shall be presented to the board therefor, setting forth in detail the provisions proposed to be made for guarding against injury to the public health, and if the board is satisfied that such proposed arrangements are sufficient for such purpose, they shall personally inspect the premises named in petition, and shall make no assignment until it appears to them that such provisions are secured. Whenever, in the opinion of said board, the public health requires the revoking such assignment, they shall at once revoke the same, with or without notice as they shall see fit.

Same. Rev. Ord. 1868.

13. Nothing contained in the previous sections shall prevent any person from carrying and selling fresh fish, free from offal, in any part of the city during the year, in carts or vehicles suitably covered to preserve the fish from the sun, except that from the first day of June to the first day of September they shall not be carried and sold, as aforesaid, between the hours of nine A. M. and four P. M. under a penalty of five dollars for each offense.

Offensive substances not to be thrown into wells. Ibid.

14. No person shall throw, or cause to be thrown, into any well, cistern, or fountain, any stones, bricks, or parts of bricks, dead animals, carrion, or fish, offal, or any other substance whatever, under a penalty of not less than five dollars nor more than fifty dollars.

Unwholsome provisions not to be sold.

15. No person shall knowingly sell or offer for sale within the city any unwholesome, stale or putrid articles of provisions, nor any meat that has been blown, raised or stuffed, nor any measly pork, nor any diseased meat of any kind, under a penalty of not less twenty dollars nor more than fifty dollars for each offence. Ibid.

Regulations respecting hogsties. Rev. Ord., 1868.

16. If any person shall erect, place, or continue any hog-sty within one hundred feet of any street, square, lane or alley, or of any dwelling house, such person shall forfeit and pay for every such offense, the sum of five dollars for every week during which any hog or swine shall be kept or continued in such sty.

House offal.

To be taken away.

17. All house offal, whether consisting of animal or vegetable substances, shall be deposited in convenient vessels, and be kept in some convenient place, to be taken away by such person or persons as shall be appointed by the mayor and aldermen for that purpose.

City cart to collect offal. May 12, 1863. Rev. Ord. 1868.

18. A city cart or other suitable vehicle shall be provided and furnished with a bell to give notice of its approach, which shall pass through all the streets, lanes and courts of the city, not less than twice in every week, to receive and carry away all such house offal as may have been accumulated in the vessels aforesaid.

Mayor and aldermen to appoint person to have charge of cart. Rev. Ord., 1855, as amended by city charter. Rev. Ord., 1868.

19. The mayor and aldermen shall appoint, annually, a suitable person to take charge of the cart or vehicle mentioned in the preceding section, and to collect and carry away the house offal accumulated as aforesaid; and the person so appointed may appoint a deputy, when he may deem it necessary.

Offal to be delivered to person so appointed. Rev. Ord., 1868.

20. All persons shall promptly deliver the offal so accumulated on their premises to the person appointed as aforesaid to receive the same. And if any person shall neglect to provide suitable vessels for the

deposit of such house offal, or shall in any way hinder or delay the person so appointed to receive it, in the performance of his duty aforesaid, he shall forfeit and pay a sum not less than two nor more than twenty dollars for each and every offense.

No other person to collect offal.
Ibid.

21. No person shall go about collecting any house offal, consisting of animal or vegetable substances, or carry the same through any of the streets, lanes, or courts of the city, except the person appointed as aforesaid, or his deputy, under a penalty of not less than two nor more than twenty dollars for each and every offense.

Penalty.

Vaults and privies in unhealthy condition to be cleansed.
Ibid.

22. Whenever any vault, privy, or drain, shall, in the opinion of the mayor or health officer, by its filth or dirt, become dangerous to the health, or prejudicial to the comfort of the citizens, the agent, occupant, or other person having charge of the land in which any vault, privy, or drain may be situated, the state and condition of which shall be in violation of the provisions of this ordinance, shall remove, cleanse, alter, amend, or repair the same, within a reasonable time after notice in writing to that effect, given by the mayor, any alderman, or the city marshal. In case of neglect or refusal for the space of five days, the mayor and aldermen shall cause the same to be removed, cleansed, altered, amended or repaired, as they may deem expedient, at the expense of owner, agent, occupant, or other person, as aforesaid.

In case of neglect or refusal, to be done by mayor and aldermen at expense of owner.

Mayor and aldermen may remove persons from tenements where too numerous or unprovided with vaults.
Ibid.

23. Whenever, upon due examination, it shall appear to the mayor and aldermen that the number of persons occupying any tenement or building in the city, is so great as to be the cause of nuisance and sickness, and the source of filth, or that any tenements or buildings are not furnished with suitable vaults, privies, or drains, they may thereupon issue their notice in writing to such persons, or any of

them, requiring them to remove from and quit, such tenement or building within such time as the mayor and aldermen shall deem reasonable. And if the person or persons so notified, or any of them, shall neglect or refuse to remove and quit, within the time mentioned in such notice, the mayor and aldermen are hereby authorized and empowered, thereupon forcibly to remove them, and to close up such tenement, and the same shall not be again occupied as a dwelling place under a penalty of not less than fifty dollars, to be recovered of the owner or owners if they shall have knowingly permitted the same to be occupied.

Penalty.

24. No person shall hang or spread, or expose in any street, lane, alley, court or public place, any raw, dried, tanned, or dressed skins, hides or leather, under a penalty of net less than three nor more than ten dollars for each offense.

Hides or leather not to be exposed in streets.
Ibid.

25. The harbor master and city physician shall perform such duties, relative to quarantining vessels, as may be required by the mayor and aldermen, and shall receive therefore such fee and expenses from each vessel visited, liable to be quarantined, as may be fixed by the mayor and aldermen.

Harbor master and city physician to perform duty in reference to quarantining vessels.
Ord. Aug. 9, 1869.

26. No person, except as hereinafter provided, shall empty or remove the contents of any privy vault within the limits of the city of Portland, or attempt so to do.

In relation to emptying of vaults.

27. The Board of Health, annually, shall license in writing such number of persons as they may judge necessary to open, clean out, and remove the contents of privy vaults, subject to dismissal for cause, and subject to the ordinances of the city and all present and future regulations of the board of health.

Ord. June 5, 1878.

28. Each person thus appointed shall execute to the city a bond in the penal sum of two hundred dollars, with sufficient surety or sureties, conditional that he will speedily and faithfully perform the work

Bond.
Ibid.

and will observe all the laws of the State, ordinances of the city, and regulations of the board of health in opening, cleaning and emptying vaults.

29. Each person, so appointed, before doing any work, shall provide himself with a close covered and water tight cart of the size and description prescribed by the committee on health, and shall receive for each load of night soil filling the capacity of said cart, taken from any privy vault and transported and buried in a place at least three feet below the surface of the ground, to be approved by said committee, such sum as the committee on health may from time to time determine.

Cart.
Ibid.

30. Each person so licensed, before opening or emptying any privy vault, shall obtain a permit in writing from the committee on health, or some person appointed to issue such permit, and in such permit shall be prescribed through what streets and by what route the night soil shall be transported. No such permit shall be granted between the first day of July and first day of October, and no vault shall be emptied between these dates except by express order of the committee on health.

Permit.
Ibid.

31. No privy vault shall be emptied or the contents or any part thereof conveyed through any part of the city except between the hours of ten at night and sunrise of the following morning, nor shall any cart or vehicle containing such contents be permitted to stand in any part of the city, except while loading.

Time.
Ibid.

32. Any person violating any of the provisions of the foregoing sections shall forfeit and pay to the use of the city not less than three dollars nor more than twenty dollars.

Penalty.
Ibid.

33. Sections twelve and thirteen of the revised ordinances of eighteen hundred and sixty-eight, relating to health, are hereby repealed.

Repeal.
Ibid.

INTERMENT OF THE DEAD.

34. The department relative to the interment of the dead shall be placed under the control of one superintendent to be called the superintendent of burials, who shall ex-officio be an undertaker, whose duty it shall be, and he shall have power, to carry into execution all power and authority vested in the city council relative to the interment of the dead, the establishment of the police of the cemeteries and burying grounds, and the regulations of funerals and funeral processions, subject always to the authority and control of the mayor and aldermen; and it shall be the duty of said superintendent to carry into effect the ordinances of the city council and the laws of the State relative thereto.

Superintendent of burials.

Rev. Ord. 1868.

See also Ord. on Evergreen Cemetery.

Authority.

To be subject to the regulation of mayor and aldermen.

To carry into effect city ordinances, &c.

35. Said superintendent shall be appointed annually, on the second Monday of the month of March, or as soon thereafter as may be, by the mayor, by the advice and consent of the aldermen, and he shall hold his office for one year, and until another be chosen, unless previously removed by the mayor, by the advice and consent as aforesaid, and in case of vacancy in said office on account of removal, death, or resignation, the mayor shall appoint a successor for the remainder of the year, and the said officer shall receive such compensation as the city council shall deem reasonable, and he shall be sworn to the faithful execution of his office, and shall give such bonds for the faithful performance of his duties, as shall be satisfactory to the mayor and aldermen.

Superintendent to be chosen annually.

Ibid., as amended by city charter, § 6.

To be sworn.

To give bonds.

36. It shall be the duty of said superintendent to keep the fences, walls and gates of the several burying grounds in the city in good repair, to take care that said burying grounds are well secured by locks and bolts, to designate the place, depth and width of every grave dug therein, to cause said graves to be

Duties of superintendent of burials.

Ibid.

dug in exact ranges and parallel with the lines as laid out in said cemetery, and as near to each other as he may think proper, and to take care that said graves be so filled and elevated that water may not remain thereon; and he shall record in a book to be kept for that purpose, the name, age and sex of each person interred, the family to which the deceased belonged, the disease of which he or she died, and whether resident or stranger, the time when interred, the number and range of the grave or tomb, &c., and report to the city council, in the month of February, annually, a list of such interments during the preceding year, specifying the particulars aforesaid as recorded.

Funeral cars to be in care of superintendent. Ibid.

37. All funeral cars used in and owned by the city shall be under the care of said superintendent, and shall be deposited for safe keeping in places provided for that purpose; and it shall be the duty of said superintendent to cause them to be kept clean and in good repair, and he shall not permit any person to use the same, except undertakers who are duly licensed.

Undertaker to be appointed and licensed by mayor and aldermen. Ibid. as amended by city charter, § 6.

38. A sufficient number of undertakers shall annually, on the second Tuesday of March, or as soon thereafter as may be, be appointed and licensed by the mayor, by the advice and consent of the aldermen, who shall hold their offices one year, or until others are appointed in their stead, and who shall be responsible for the decent, orderly and faithful management of the funerals undertaken by them, and a strict compliance with the ordinances of the city in this behalf.

May employ porters.

Each undertaker may employ porters of decent and sober character to assist him, and shall be accountable to the mayor and aldermen for their conduct, and said undertakers and porters shall always be removable at the pleasure of the mayor. And all persons not licensed as undertakers as aforesaid, are hereby for-

May be removed.

bidden and prohibited from undertaking the management of any funeral, under a penalty of not less than ten nor more than twenty dollars for each offence.

Undertakers not licensed, prohibited from acting as such. Penalty.

39. No person shall bury or inter, or cause to be buried or interred, or deposit in the city tomb, any dead body, without first having obtained a license so to do, from the superintendent of burials, whose duty it shall be to grant the same to any licensed undertaker. And no person shall bury or inter, or cause to be buried or interred, any dead body, at any other time of the day than between sunrise and sunset, except when otherwise ordered by the superintendent of burials.

No interments to be made without license from superintendent of burials. Rev. Ord. 1868.

No interments to be made except between sunrise and sunset, except, &c.

40. The undertakers shall be allowed to charge and receive the following fees for their services, to wit: For services and interring an adult in Evergreen Cemetery, including hearse and porter's fee, seven dollars; and for a child five dollars. For interring in either cemetery in the city, including hearse and porter's fee, five dollars; and for a child four dollars.

Undertaker's fees. Rev. Ord. 1868, See Ord. on Evergreen Cemetery.

For opening church and carrying the body into the same for funeral services, an additional fee of two dollars. For taking up body from either cemetery within the city, and removing and interring the same in Evergreen Cemetery, five dollars; for every additional body taken up, removed and interred aforesaid at the same time, three dollars.

For taking up and removing the body of a child to Evergreen Cemetery, three dollars and fifty cents.

For services attending funeral and depositing the body of an adult in the city tomb, four dollars; for removing and interring the same in Eastern Cemetery, one dollar and fifty cents; in Western Cemetery, two dollars.

For attending funeral services and depositing a child in city tomb, three dollars; for removing and

interring the same in Eastern Cemetery, one dollar; in Western Cemetery, one dollar and fifty cents.

Depth of graves. Ibid. as amended by Ord. Jan. 4, 1876.

41. All graves for adult persons shall be dug not less than five feet deep; and the depth for children shall be left to the discretion of the superintendent. The corpse of every person of eight years old and upwards shall be conveyed to the place of interment in a funeral car.

No body to be removed from city without permission of superintendent. Rev. Ord. 1868.

42. If any person shall be desirous to remove out of the city the body of a deceased person for interment, he shall make application to the superintendent of burials for permission so to do, and said superintendent shall grant such permission if no cause shall appear for withholding the same, and shall attend to such removal in person, or employ one of the undertakers of the city to attend thereto; and for a permit for such removal, the superintendent shall be entitled to receive the sum of twenty-five cents, provided that the provisions of this section shall not apply to interments made in Evergreen Cemetery, Forest City Cemetery, and Calvary Cemetery:

Superintendent to attend to removal.

Undertakers to make returns to superintendent. Rev. Ord. 1868.

43. Every undertaker shall within twenty-four hours after attending the interment of any deceased person, make a return in writing to the superintendent of burials, of the name, age and sex of the deceased, the names of parents when known, date of death, whether resident or stranger, and the date and place of interment.

Bodies not to be removed without permit of superintendent. Ibid.

44. No person shall remove any bodies or the remains of any bodies, from any of the graves or tombs in the city, or disturb or break up, or remove any body in any tomb or grave without special permission of the superintendent of burials.

Bodies in city tomb to be removed, except, &c. Ibid.

45. All bodies that are or may be deposited in the city tomb, waiting burial in any of the cemeteries belonging to the city, shall be removed therefrom, on

or before the fifteenth day of May of each year, unless they shall be suffered to remain by special permission from the superintendent of burials.

Superintendent to remove bodies. Ibid.

46. If the requirements of the preceding sections are not complied with, it shall be the duty of the superintendent of burials to remove all such bodies from said tomb, and properly inter the same, at the expense of the parties interested.

Bodies not to interred in city cemeteries, except, &c. Ord. June 24, 1859. Rev. Ord., 1868.

47. No person shall bury or inter, or cause to be buried or interred any dead body in either of the cemeteries within the city, except in family tombs, or lots, or plats that have heretofore been assigned for family burying-grounds, and in which there may be sufficient space for the interment of dead bodies.

Mayor and aldermen authorized to close tombs, &c. Ibid.

48. Whenever the mayor and aldermen deem that any additional interments in any family tomb, lot or plat, in either of the cemeteries within the city would be injurious to public health, they are hereby authorized to order that such tomb, lot or plat shall be closed, and to forbid the same to be used thereafter for the purpose of interment.

Mayor and aldermen to make regulations, &c. Ibid.

49. The mayor and aldermen are authorized to make and adopt any regulations in relation to the interment of the dead, which they may deem expedient, not inconsistent with the foregoing provisions.

Drivers of hacks and other vehicles forbidden to transport dead bodies without permit. Ord. Jan. 4, 1876.

50. No driver of any hack, job wagon, or express wagon, or any other vehicle, except a duly appointed and licensed undertaker, shall transport through this city, or from one place to another in this city, any dead body which is to be buried in any cemetery belonging to the city, without permission of the superintendent of burials, under a penalty of twenty dollars for each offence, to be recovered for the use of the city by complaint before the judge of the municipal court of Portland.

Penalties for violation of foregoing provisions. Rev. Ord. 1868.

51. Any person who shall be guilty of any violation of any of the provisions of this ordinance in relation to which a penalty is not prescribed, shall for each and every offence, forfeit and pay a sum not less than five nor more than twenty dollars, to be recovered by complaint before the municipal court, or by action in the name of the city.

[For duties of superintendent of burials relating to Evergreen and Forest City Cemeteries, see chapter on CEMETERIES, *ante*.]

Histories of Cities and Towns.

Statute.

Towns authorized to procure histories and raise money therefor.

Cities and towns may raise moneys for the purpose of procuring the writing and publication of their histories.

Towns authorized to procure histories and raise money therefor.
R. S., 1871, c. 3, § 36.

Houses of Correction.

Statutes.

1. Town houses of correction and their object.
2. Overseers thereof.
3. Of work-houses appropriated to the like uses.
4. Compensation of overseers and master.
5. Duties of the overseers.
6. Support of the prisoners.
7. Powers of overseers to commit persons to such house.
8. Form of the order for commitment.

Town houses of correction and their object. R. S., 1871, c. 141, § 17.

1. Any town at its own expense, may build and maintain a house of correction, or may appropriate in part or in whole any work-house owned by such town for such purpose; and any person belonging to or found in such town, liable to be sent by a justice of the peace to the county house of correction, may be sent to such town house by any justice of such town, and by the like process; but the provisions of this section shall not restrain such justice from committing any person so liable to the county house of correction; and the respondent party may appeal as in other cases.

Overseers thereof. Ibid. § 18.

2. The selectmen of any such town shall annually appoint three, five, or seven discreet persons, overseers of such house, and may establish, from time to time, such rules and orders not repugnant to law, as they deem necessary for governing and furnishing persons lawfully committed thereto.

Of work-houses for like uses. Ibid. § 19.

3. When any work-house is so appropriated for a house of correction, the master thereof shall be master of the house of correction; but in other cases the overseers thereof shall appoint a suitable master, removable at their pleasure.

Compensation of overseers and master. Ibid. § 20.

4, The overseers and master of such town house of correction shall have such compensation for their services as is annually voted by their towns.

5. The overseers, from time to time, shall examine into the prudential concerns and management of such house, and see that the master faithfully discharges his duty. Duties of the overseers. Ibid. § 21.

6. Every person committed to such town house of correction shall be supplied by the keeper with a suitable quantity of bread and water, or other nourishment, as the overseers order; and all expenses incurred for commitment and maintenance, exceeding the earning of the person confined, shall be paid by the parties liable for similar charges in the case of persons committed to a county house of correction. Support of the prisoners. Ibid. § 22.

7. The overseers of any such town house of correction may commit thereto, for a term not exceeding forty-eight hours, any person publicly appearing intoxicated, or in any manner violating the public peace, when the safety of the person intoxicated, or the good order of the community requires it, till such person can be conveniently carried before a magistrate and restrained by complaint and warrant in the usual course of criminal prosecutions. Powers of overseers to commit persons. Ibid. § 23.

8. The form of the order for commitment may be in substance as follows: Form of order for commitment. Ibid. § 24.

To A. B., master of the house of correction in the town of——: You are hereby required to receive and keep C. D. in said house of correction for the term of ——— hours, unless sooner discharged by our order.

E. F., G. H., } Overseers of said house of correction.

And any sheriff, deputy sheriff, constable or other person, to whom such order is given by said overseers, shall forthwith apprehend and convey such person to said house of correction, and deliver him to the master, thereof to be taken and kept agreeably to the order; and shall be and entitled to receive from the town such fees for service and travel as are allowed for service of warrants.

Industrial[1] School.

Statute.

Under what conditions girl may be sent.

Industrial School girl may be sent to by municipal officers. 1879, c. 87. Amending 1878, c. 141, and 1873, c. 141.

A parent or guardian of any girl between the ages of seven and fifteen years, or the municipal officers, or any three respectable inhabitants of any city or town where she may be found, may complain in writing to the judge of probate or any trial justice in the county, or to the judge of the municipal or police court for the city or town, alleging that she is leading an idle or vicious life, or has been found in circumstances of manifest danger of falling into habits of vice or immorality, and request that she may be committed to the guardianship of the Maine Industrial School for Girls. The judge or justice shall appoint a time and place of hearing, and order notice thereof to any person entitled to be heard, and at such time and place, may examine into the truth of the allegations of said complaint, and if satisfactory evidence thereof is adduced, and it appears that the welfare of such girl requires it, he may order her to be committed to the custody and guardianship of the officers of said school during her minority, unless sooner discharged by process of law.

[1] See act 1873, c. 141, for full provisions about this school. Also act 1878, c. 141.

Innholders and Victualers.

Statutes.

1. Licenses to innholders and victualers, when and by whom granted.
2. Persons licensed to give bond; form thereof.
3. Licenses may be granted for a part of the year in certain cases.
4. Fee for license, and record of licenses.
5. Duty of innholders to provide entertainment.
6. Duty of victualers.
7. Innholders and victualers to keep up signs with their names and employments.
8. Not to keep instruments of gaming, or allow any gaming on their premises. Penalty for gaming in said premises.
9. Reveling, disorderly conduct and drunkenness prohibited in such premises.
10. Penalty for being a common innholder or victualer without a license.
11. Duty of licensing board to prosecute for all violations hereof. Penalties, how recovered and appropriated.
12. Fire escapes.
13. Liability for baggage.
14. " " " loss by fire.
15. " " " " " negligence of guest.

License to innholders and victualers, when and by whom granted. R. S., 1871, c. 27, § 1.

1. The municipal officers, treasurer, and clerk of every town shall annually meet on the first Monday of May, or on the succeeding day, or both, and at such time and place in said town as they appoint by posting up notices in two or more public places therein, at least seven days previously, stating the purpose of the meeting; and at such meeting may license under their hands as many persons of good moral character, and under such restrictions and regulations as they deem necessary, to be innholders and victualers in said town, until the day succeeding the first Monday in May of the next

Licenses may be revoked.

following year, in such house or other building, as the license specifies. And at any meeting notified and held as above named they may revoke licenses so granted if in their opinion there is sufficient cause therefor.

Persons licensed to give bond; form.
Ibid. § 2.

2. No person shall receive his license, until he has given his bond to the treasurer, to the acceptance of the board granting it, with one or more sureties, in the penal sum of three hundred dollars, in substance as follows, viz:

"Know all men, that we, ———, as principal, and ———, as sureties, are holden and stand firmly bound to ———, treasurer of the town of ———, in the sum of three hundred dollars, to be paid to him, or his successor in said office; to the payment whereof we bind ourselves, our heirs, executors, and adminstrators, jointly and severally by these presents. Sealed with our seals. Dated the —— day of ——, in the year 18——. The condition of this obligation is such, that whereas the above bounden ——— has been duly licensed as a ——— within the said town of———, until the day succeeding the first Monday of May next; now if in all respects, he conforms to the provisions of the law relating to the business for which he is licensed, and to the rules and regulations, as provided by the licensing board in reference thereto, and shall not violate any law of this State relating to intoxicating liquors—then this obligation shall be void, otherwise remain in full force."

1872, c. 63.

Licenses may be granted for a part of the year.
R. S. 1871, c. 27. § 3.

3. The licensing board may, at any other time, at a meeting specially called, and notified as aforesaid for the consideration of any application therefor to them made, grant such license on the like conditions; but all such licenses shall expire on the day aforesaid.

Fee for license, and record of all licenses.
Ibid. § 4.

4. Every person licensed shall pay to the treasurer, for the use of such board, one dollar; and the clerk shall make a record of all licenses granted.

Duty of innholders to provide entertainment.
Ibid. § 5.

5. Every innholder shall, at all times, be furnished with suitable provisions and lodging for strangers and travelers, and with stable room, hay, and provender for their horses and cattle; and with pasturing, if required by the terms of his license; and he shall grant such reasonable accommodations as occasion requires, to strangers, travelers, and others.

Duty of victualers. Ibid. § 8.

6. Every victualer[1] shall have all the rights and privileges and be subject to all the duties and obligations of an innholder, except furnishing lodging for travelers, and stable room, hay, or provender for cattle.

Innholders and victualers to keep up signs. Ibid. § 9.

7. Every innholder and victualer shall, at all times, have a board or sign affixed to his house, shop, cellar, or store, or in some conspicuous place near it, with his name at large thereon, and the employment for which he is licensed.

Not to allow gaming on their premises. Penalty. Ibid. § 10.

8. No innholder or victualer shall have or keep about his house, shop, or other buildings, yards, gardens, or dependencies, any dice, cards, bowls, billiards, quoits, or other implements used in gambling; or suffer any person resorting thither to use or exercise any of said games, or any other unlawful game or sport therein; and every person who shall use or exercise any such game or sport in any place herein prohibited, shall forfeit five dollars.

Reveling, disorderly conduct, drunkenness prohibited, &c. Ibid. § 11.

9. No innholder or victualer shall suffer any revelling, riotous, or disorderly conduct in his house, shop, or other dependencies; nor any drunkenness or excess therein.

Penalty for being a common innholder or victualer without a license. Ibid. § 12.

10. No person shall be a common innholder or victualer without a license, under a penalty of not more than fifty dollars.

Duty of licensing board to prosecute. Ibid. § 13.

11. The licensing board shall prosecute for any violations of this chapter, that come to their knowledge, by complaint, indictment, or action of debt, in any court of competent jurisdiction; and all penalties recovered shall be for the use of the town where the offence is committed.

Ibid. §§ 6 and 7.

12. Innholders may be required to furnish fire escapes and ladders, and have sixty days' notice therefor.

1874, c. 174. Innholder's liability for baggage.

13. Innholders shall be not liable for losses sustained by their guests, except wearing apparel, articles worn or carried upon the person, to a reasonable amount, personal baggage, and money necessary for traveling expenses and personal use, unless upon delivery, or offer of delivery, by such guests, of their money, jewelry, or other property, to the innholder, his agent or servants, for safe custody.[3]

[1] Crosby *v.* Snow, 16 Maine, 121; State *v.* Lamos, 26 Maine, 258.
[2] Commonwealth *v.* Arnold, 4 Pick., 251.
[3] Shaw *v.* Berry, 31 Maine, 478; Norcross *v.* Norcross, 53 Maine, 163.

Loss by fire.

14. In case of loss by fire, innholders shall be answerable to their guests only for ordinary and reasonable care in the custody of their baggage or other property.

Loss by negligence of guests.

15. An innholder against whom a claim is made for loss sustained by a guest, may in all cases, show that such loss is attributable to the negligence of the guest himself or to his noncompliance with the regulations of the inn; provided, such regulations are reasonable and proper and are shown to have been brought to the notice of the guest.

For lien of innholders see R. S., 1871, c. 91, § 38, and laws 1876, c. 99.

See Title "FIRE DEPARTMENT."

Description of marks of soda water and ginger beer manufacturers to be filed in clerk's office.

See act 1874, c. 249.

Intelligence Offices.

Statutes.

1. Municipal officers may license.
2. Penalties how recovered.

1. The municipal officers of any town may, upon payment of one dollar each, grant licenses to suitable persons for one year, unless sooner revoked after notice and for cause, to keep offices for the purpose of obtaining employment for domestics, servants, or other laborers, except seamen, or of giving information relating thereto, or of doing the usual business of intelligence offices; and no person shall keep such an office, without a license, under a penalty not exceeding fifty dollars for every day it is so kept.

Municipal officers may license intelligence offices.

Penalty.

R. S., 1871, c. 35, § 6.

2. The penalty provided in this chapter may be recovered by complaint or indictment, in any court of competent jurisdiction, for the use of the State, when not otherwise appropriated.

Penalties, how recovered and appropriated.

Ibid. § 7.

Jurors.

Statutes.

1. Board for preparing lists of jurors; towns may make alterations.
2. How the lists are to be prepared.
3. Persons exempted from serving.
4. Tickets of names to be kept in jury box; liable to be drawn once in three years.
5. Number required to be kept in jury box; names may be withdrawn in certain cases.
6. Commissioners to divide the county into jury districts, and furnish copy of division to clerk; how divided and numbered.
7. Rule by which the clerk shall issue venires.
8. Grand jurors to serve one year; venires for such to issue forty days before second Monday of September annually.
9. Grand and traverse jurors to attend on the first day of the term, unless at a previous term, the court designates a different day.
10. Distribution of venires, and notice of meetings to draw jurors, &c.
11, 12, 13. Mode of drawing jurors; date of draft to be indorsed on the ticket.
14. Constables to notify jurors, and return venires.
15. Penalty for neglect of municipal officers or clerk.
16. Penalty for neglect of constable or town.
17. Penalty for neglect of juror to attend.
18. Penalty for fraud by town clerk or municipal officer.

Board for preparing lists of jurors, &c. R. S., 1871, c. 106, § 1.

1. The municipal officers, treasurer, and clerk of each town constitute a board for preparing lists of jurors to be laid before the town for their approval; and the town, in legal town meeting, by a majority of the legal voters assembled, may strike out such names as they think proper from such lists, but shall not insert any other names.

How lists are to be prepared Ibid. § 2, as amended by 1878, c. 4.

2. Such board, at least once in every[1] three years, shall prepare a list of persons, under the age of seventy years, qualified to serve as jurors; and in preparing such list they shall take the names of such persons only as are of good moral character, of approved integrity, of sound judgment and well informed, and qualified as the constitution directs to vote for representatives in such town. When a new list is made, the municipal offices shall transfer from the old tickets to the new, of the same persons, the minutes of the draft made within the three preceding years.

Persons exempted from serving. R. S., 1871, c. 106, § 3.

3. The following persons shall be exempted from serving as jurors, and their names shall not be placed on the lists: the governor, councillors, judges, and clerks of the common law courts, secretary and treasurer of the State, all officers of the United States, judges and registers of probate, registers of deeds, settled ministers of the gospel, officers of colleges, preceptors of incorporated academies, physicians and surgeons, cashiers of incorporated banks, sheriffs and their deputies, coroners, counsellors and attorneys at law, county commissioners, constables, and constant ferrymen. Enginemen shall be excused unless towns otherwise decide. [See title "Fire Department."]

Tickets of names to be kept in jury box., &c. Ibid. § 4.

4. After[2] the list of jurors is approved by the town, the board shall write their names upon tickets, and place them in the jury box, to be kept by the town clerk; and the persons whose names are in the box shall be liable to be drawn and to serve on any jury, at any court for which they are drawn, once in every three years and not oftener, except as herein provided.

Nnumber required to be kept in jury box &c. Ibid. § 5.

5. Each town shall provide, and constantly keep in the box, a number of names ready to be drawn when required, not less than one, nor more than two for every hundred persons in the town, according to the census taken next before preparing the box; and the board shall withdraw

[1] The fact that a juryman is over the exempted age is not reason for invalidating a verdict, Monroe *v.* Brigham, 19 Pick., 368.

[2] A county is not chargeable in trustee process for compensation of a juror, ordered to be paid from county treasury. Williams *v.* Boardman, 9 Allen, 570.]

from it the name of any person convicted of any scandalous crime, or guilty of any gross immorality.

Commissioners to divide the county into jury districts, &c.
Ibid. § 6.

6. Within one year after every new census, and oftener if a considerable change of population renders it proper, the county commissioners shall divide their county into not less than four, nor more than twelve districts numerically designated; and they shall place as many adjoining towns in each district, as will make the number of inhabitants in each, according to the last census, as nearly equal as may be, without dividing a town; and shall deliver a copy of such division immediately to the clerk of the courts in their county.

Rule by which the clerk shall issue venires.
Ibid. § 7.

7. The grand and traverse jurors shall be drawn from each jury district in such manner as to cause jurors, at each term of the court, to come from every part of the county as equally as may be, and, as far as practicable, from every town in rotation, having regard to the number of its inhabitants, taking not more than two grand jurors and two traverse jurors from the same town at the same time, unless from necessity, or some extraordinary cause, or to equalize the service; and the clerk of the courts shall issue venires to the constables accordingly.

Venires. Grand jurors to serve one year, &c.
Ibid. § 8.
See also R. S., c. 82, § 71.

8. Venires for grand jurors, to serve at the supreme judicial court, shall be issued as least forty days before the second Monday of September annually; and they shall serve at every term of said court for the transaction of criminal business during the year. Venires for traverse jurors shall be seasonably issued before each term of the court, and at such other times as the court orders.

Jurors to attend on the first day of the term, &c.
R. S., 1871, c. 106, § 15.

9. The grand and traverse jurors shall attend on the first day of the term for which they are drawn and summoned; unless the court at a previous term has designated a different day; and if so, the venire shall specify the day on which the jurors shall attend.

Venires, duties of sheriffs in relation to distribution of. Constable shall notify inhabitants, &c.
Ibid. § 9.

10. The sheriff on receiving such venires for jurors shall immediately send them to the constables of the towns where directed, and each constable on receipt thereof shall notify the inhabitants of the town, qualified to vote for representatives, and especialy the municipal officers and town clerk, by posting notices in two public

and conspicuous places in said town at least four days before such meeting, to assemble and be present at the draft of the jurors called for; which shall be six days at least before the time when the jurors are ordered to attend court.

—notice, how given. Ibid. § 9.

11. The town clerk, or, in his absence, one of the municipal officers, shall carry the juror box into the meeting, which shall there be unlocked, and the tickets mixed by a majority of said officers present; and one of them shall draw out as many tickets as there are jurors, and the persons whose names are drawn shall be returned as jurors unless they have served on the jury within three years, or from sickness, absence beyond sea, without the limits, or in distant parts of the State, they are considered by the town unable to attend.

Mode of drawing jurors, &c. R. S., c. 106, § 11.

12. In either of said cases, or if a person is drawn who has been appointed to an office exempting him from serving, others shall be drawn in their stead; but any person thus excused, or returned and attending court, and there excused, shall not be excused on another draft, though within three years; and when all the persons whose names are in the box, have served within three years, or are not liable to serve, the selectmen shall draw out the required number of those who have not served for eighteen months; and the clerk shall certify on the venire, that all persons whose names are in the box have served within three years, or are not liable to serve.

Same subject Ibid. § 12.

13. When a juror is drawn and not excused by the town, the municipal officers who drew his ticket shall indorse thereon the date of the draft and return it into the box.

Date of draft to be indorsed on the ticket. Ibid. § 13.

14. The constable shall notify the persons thus drawn four days at least before the sitting of the court, by reading the venire and indorsement thereon to them, or leaving at their usual place of abode a written notice that they have been drawn, and of the time and place of the sitting of the court where they are to attend; and make a seasonable return of the venire with his doings thereon.

Constables to notify jurors, and return venires. 5 Greenl., 333. Ibid. § 14.

Penalty for neglect of officers. Ibid. § 16.

15. If the municipal officers or town clerk neglect to perform their duties herein required, so that the jurors called for from their town are not returned, they shall be fined not less than ten, nor more than fifty dollars each.

Penalty for neglect of constable or town. Ibid. § 17.

16. Any constable, neglecting to perform his duties herein required, shall be fined not exceeding twenty dollars; and any town for a like neglect of its duties shall be fined not exceeding one hundred dollars.

Penalty for neglect of juror to attend. Ibid. § 19.

17. Any juror who, after being notified and returned, unnecessarily fails in his attendance, shall be fined as for contempt, not exceeding twenty dollars, unless he resides in Portland, and then not exceeding forty dollars.

Penalty for fraud by town officers. Ibid. § 20.

18. Any town clerk or municipal officer, who commits a fraud on the box previous to the draft, in drawing a juror or in returning a name into the box, which had been fairly drawn and drawing another in its stead, or in any other mode, shall be fined not exceeding two hundred dollars, half to the use of the State and half to the prosecutor.

Lamps and Lamp Posts.

Statute.

Injuries to lamps and lamp posts.

Ordinances.

1. Committee on lamps and lamp posts to be appointed. To cause lamps to be set up at corners of streets.
2. Mayor and aldermen to make contracts, rules and regulations.
3. Lighting and extinguishing lamps forbidden.
4. Trees and lamp posts legally established.
5. " " " " " located, how.
6. " " " " " " when.
7. " " " " Record.

Statute.

Whoever[1] willfully and maliciously removes, defaces, or injures any lamp, or lamp post, or extinguishes any lamp on any bridge, street, way, or passage, shall be punished by imprisonment less than one year, and by fine not exceeding one hundred dollars.

Injuries to monuments, guide boards lamps, &c. R. S., 1871, c. 127, § 14.

Ordinances.

1. There shall be appointed in the month of March, annually, a joint committee of the city council, to be called the committee on lamps and lamp posts, to consist of one member of the board of mayor and aldermen, and three members of the common council, and said committee shall cause to be set up and affixed lamps at the corners of such streets in the city as they may determine to be convenient and necessary.

See Trees. Committee on lamps and lamp posts to be appointed. Rev. Ord., 1868.

To cause lamps to be set up at corners of streets.

2. The mayor and aldermen of the city, are hereby authorized and empowered to make all necessary contracts, rules, orders, and regulations respecting

Mayor and aldermen to make contracts, rules and regulations.

[1] See act 1871, c. 178; 1872, c. 2.

Ibid.

the said lamps, and the lighting and keeping the same in repair, and the regulation and preservation of the same, as they may deem most for the benefit of said city.

No person, without authority shall light or extinguish lamp.
Penalty.
Ord. Dec. 31, 1870.

3. No person, without authority of the municipal officers, or from the Gas Light Company, shall light or extinguish any street lamp, under a penalty not less than five dollars, nor more than ten dollars for each offense.

Ord. May 1, 1871. All lamp posts, &c. taken for legally established.

4. All trees, lamp posts, posts and hydrants, now placed and being within the limits of the streets of the city, are hereby declared to be and shall be taken to be legally established and located.

How lamp posts, &c. may be legally located.
Ibid.

5. Lamp posts, and posts for protecting them, may be located within the limits of any street of the city, by the joint committee of the city council on lamps and lamp posts under existing ordinances, or by direction of the city council.

When any tree, &c. shall be taken as legally located.
Ibid.

6. Any tree, lamp post, post or hydrant, or any post for the protection of the same, shall be taken to be legally established within the limits of any street of the city, when it has been located therein by order or with approval of the mayor, or joint standing committee on streets, sidewalks, and bridges, or street commissioner.

Record.
Ibid.

7. When an order is given, under the provisions of this ordinance, it shall be recorded by the city clerk in a book provided for that purpose and kept in his office.

Leather.

Statutes.

1. Manufacturer may stamp his name on leather, &c.
2. Inspectors of sole leather; their appointment; fees.
3. Mode of inspecting and stamping.
4. Taxes.

Ordinance.

Hides not to be exposed in street.

Statutes.

Manufacturer of leather, boots and shoes may stamp his name thereon, &c. R. S., 1871, c. 39. § 25.

1. Every manufacturer of leather, and of boots and shoes, of any description, shall have the exclusive right of stamping them with the initials of his christian, and the whole of his surname; and such stamping shall be considered a warranty that the article is merchantable, and well made of good materials; and if any person fraudulently stamps any such articles with the name or stamp of any other person, he shall be punished by a fine not exceeding twenty dollars, or imprisonment not exceeding six months.

Appointment, oath, duties and fees of inspectors of sole leather. Ibid. § 26.

2. The municipal officers of each town, when they deem it expedient, may appoint one or more suitable inspectors of sole leather, who shall be duly sworn, and receive such fees from their employer, as said officers establish; and when paid by the seller, to be repaid to him by the buyer; and when requested, shall go to any place in their town to inspect any sides of sole leather, which had not been inspected according to law in this State.

Mode of inspecting and stamping sole leather, &c. Ibid. § 27.

3. Each inspector shall provide himself with a proper apparatus, with which he shall weigh and stamp every side of sole leather inspected by him, with the weight thereof, his surname, and the name of his town; and on all sole leather made of good hides, and in the best manner, the word, "best," shall be stamped; on all made of

For provisions relating to weighing of hides and leather, see R. S., 1871, c. 38, § 34.

such hides in a merchantable manner, the word, "good;" and on all other, the words, "second," or "third quality," "damaged" or "bad," according to the fact; and if any person counterfeits, alters or defaces such mark, he shall forfeit twenty dollars for each offense, half to the town and half to the person suing therefor.

Assessors to be furnished with account of hides and leather on hand, for taxation. 1872, c. 23. See also 1871, c. 230.

4. All persons engaged in the business of tanning leather in this State, shall, on or before the first day of April in each year, furnish to the assessors of the city, town or plantation where such persons are carrying on said business, a full account, on oath, of all hides aud leather on hand received by them from without the State, and also all hides and leather on hand from beasts slaughtered in this State, which last named hides and leather shall be taxed in the town where tanned.

Ordinance.

Hides or leather not to be exposed in streets. Rev. Ord. 1868.

No[1] person shall hang or spread, or expose in any street, lane, alley, court or public place, any raw, dried, tanned, or dressed skins, hides or leather, under a penalty of not less than three nor more than ten dollars for each offense.

[1] See "Health."

Libraries.

Statutes.

1. Towns may establish libraries, and raise money therefor.
2. Towns may receive donations therefor.
3. Penalty for defacing books and pictures.

Towns may establish public libraries. R. S., 1871, c. 55, § 9.

1. Any town is authorized to establish and maintain a public library therein, for the use of the inhabitants, and provide suitable rooms therefor, under such regulations for its government as the inhabitants from time to time prescribe; and appropriate, for the foundation and commencement of such library, a sum not exceeding one dollar, and for its maintenance and increase annually, a sum not exceeding twenty-five cents, for each of its ratable polls in the year next preceding.

May raise money therefor. Ibid.

May receive and manage donations for that purpose. Ibid. § 10.

2. Any town may receive, in its corporate capacity, and hold and manage, any devise, bequest, or donation, for the establishment, increase, or maintenance of a public library therein.

Penalty for defacing books and pictures. 1877, c. 161.

3. Whosoever wantonly mars, defaces or injures any book, picture, statue or painting belonging to any public library, or library of any association opened to the public, in this state, shall be punished by a fine not exceeding ten dollars, to be recovered before any court competent to try the same.

Lumber.

Statutes.

1. Towns to elect surveyors of boards, plank, timber, joist, shingles, clapboards, staves, hoops, and cullers of staves and hoops. Municipal officers may appoint surveyors of logs. All to be sworn.
2. All boards, plank, timber and joist to be surveyed before delivery on sale. Mode of measuring and marking same, and allowances. What kind of pine boards are merchantable, and what may be shipped out of the United States.

SHINGLES AND CLAPBOARDS.

3. Dimensions and quality of shingles Nos. 1, 2, and 3.
4. How shingles shall be split or sawed and packed. Forfeiture of shingles if deficiency of five in any bundle of No. 1, or if offered for sale before they are surveyed and branded.
5. Dimensions and quality of clapboards.

STAVES AND HOOPS.

6. Dimensions and quality of staves, and how enumerated.
7. Dimensions and quality of hogshead hoops; how packed and enumerated; and forfeiture of deficient bundles.
8. Not to be offered for sale, before surveyed and branded and certificate given, under a penalty. Forfeiture for master of vessel unlawfully exporting same, for first and second offence, and appropriation thereof.
9. Master or owner to produce surveyor's certificate before clearance, and affidavit thereto.
10. Penalty of surveyor or culler to neglect or refuse oath of office, and for neglecting or practicing fraud in his official duties.
11. Penalty and forfeitures, how recovered.

LOGS.

12. Duty of surveyors of logs.

Towns to elect surveyors of lumber. R. S., 1871, c. 41, § 14.

1. Every town, at its annual meeting, shall elect one or more surveyors of boards, plank, timber, and joist; one or more surveyors of shingles, clapboards, staves and

hoops; and every town containing a port of delivery, whence staves and hoops are usually exported, shall also elect two or more viewers and cullers of staves and hoops; and the municipal officers or any town may, if they deem it necessary, appoint not exceeding seven surveyors of logs, and all of said officers shall be duly sworn.

Lumber to be surveyed before delivery. Ibid. § 15.

2. All boards, plank, timber, and joist, offered for sale, shall, before delivery, be surveyed by a sworn surveyor thereof, and if he have doubts of the dimensions, he shall measure the same, and mark the contents thereon, making reasonable allowance for rots, knots, and splits, drying and shrinking; pine boards three-fourths of an inch thick when fully seasoned, and in that proportion when partly seasoned, shall be considered merchantable; and no pine boards, except sheathing boards, shall be shipped for exportation beyond the United States, but such as are square edged, not less than seven-eighths of an inch thick, nor less than ten feet long, under penalty of being forfeited to the town whence shipped.

SHINGLES AND CLAPBOARDS.

Dimensions and quality of shingles Nos. 1, 2, and 3. Ibid. § 16.

3. All shingles, packed for exportation beyond the State, shall be sixteen inches long, free from shakes and worm holes, and at least three-eighths of an inch thick at the butt end when green, and if of pine, free from sap. They shall be four inches wide on an average, not less than three inches wide in any part, hold their width three fourths of the way to the thin end, well shaved or sawed, and be denominated number one; but shingles intended for sale within this State, if of inferior quality or of less dimensions, may be surveyed and classed accordingly, under the denominations of number two, and number three.

How shingles shall be split, or sawed and packed, &c. Ibid. § 17.

4. All shingles shall be split or sawed crosswise the grain; each bundle shall contain two hundred and fifty shingles, and if in square bundles, twenty-five courses, and be twenty-two inches and a half at the lay; and when packed to be surveyed as number one, or for exportation,

if in any bundle there are five shingles deficient in the proper dimensions, soundness or number, to make two hundred and fifty merchantable shingles; or if any shingles are offered for sale, before they are surveyed and measured by a sworn surveyor of some town in the county where made, and the quality branded on the hoop or band of the bundle, unless the parties otherwise agree, they shall be forfeited to the town where the offense is committed.

Dimensions and quality of clapboards. Ibid. § 18.

5. All clapboards, exposed to sale or packed for exportation, shall be made of good sound timber, free from shakes and worm holes, and if of pine, clear of sap; and they shall be at least five-eighths of an inch thick on the back or thickest part, five inches wide and four feet six inches long, and straight and well shaved or sawed.

STAVES AND HOOPS.

Dimensions and quality of staves, and how enumerated. Ibid. § 19.

6. Staves packed for sale or exportation shall be well and proportionably split, and of the following dimensions, viz.:

White oak butt staves, at least five feet in length, five inches wide, and one inch and a quarter thick on the heart or thinnest edge, and every part thereof;

White oak pipe staves shall be at least four feet and eight inches in length, four inches broad in the narrowest part, and not less than three-quarters of an inch thick on the heart or thinnest edge;

White or red oak hogshead staves shall be at least forty-two inches long, and not less than half an inch thick on the least or thinnest edge;

White or red oak barrel staves for a market out of the United States, shall be thirty-two inches long; if for use within the United States, thirty inches long; and in either case half an inch thick on the heart or thinnest edge;

All white or red oak hogshead or barrel staves shall be at least, one with another, four inches in breadth, and no one less than three inches in breadth in the narrowest part; and those of the breadth last mentioned shall be clear of sap; and two staves shall be sold as one cast;

fifty casts, one hundred staves; and ten hundred, one thousand.

Dimensions and quality of hogshead hoops; how packed, &c. Ibid. § 20.

7. All hogshead hoops, exposed for sale, or packed for exportation, shall be from ten to thirteen feet in length, and of oak, ash or walnut, and of good and sufficient substance, well shaved; if of oak or ash, at least one inch broad, and, if of walnut, three-quarters of an inch at the least end; the different lengths shall be made up in bundles by themselves; each bundle shall contain twenty-five hoops, four bundles make one hundred, and ten hundred, one thousand; and every bundle, packed for sale or exportation, found to be deficient in number or dimensions, shall be forfeited to the use of the town where exhibited.

The articles hereinbefore named, not to be offered for sale, &c. Ibid. § 21.

8. No person shall deliver on sale, or ship or attempt to ship for exportation, any boards, plank, timber, joists, shingles, clapboards, staves, or hoops, before they have been surveyed, measured, viewed or culled, as the case may be, and branded by the proper officer, and a certificate thereof given by him specifying the number, quality and quantity thereof, under a penalty of two dollars a thousand, by quantity or tale, as such article is usually sold, one-half to the town where the offense is committed, and the other to the prosecutor; and in addition thereto, the master or owner of any vessel, exporting any of the articles aforesaid beyond the limits of the United States contrary to law, shall for the first offense forfeit two hundred dollars for the use of the town whence said articles are exported; and if after conviction he commits a second offense in the same vessel, he shall forfeit the same sum, and the vessel, if found in this State, shall also be forfeited to the same use.

Master or owner to produce surveyor's certificate before clearance, &c. Ibid. § 22.

9. The master or owner of any vessel, having any of the lumber or other articles mentioned in the preceding section on board, for exportation as aforesaid, shall before the vessel is cleared at the custom house, produce to the collector a certificate from the proper officer, that the same have been duly surveyed, measured, viewed, or culled, as the case may require; and such master or owner shall likewise make oath before the collector, or any

justice of the peace, whose certificate shall be returned to the collector, that the articles so shipped for exportation are the same articles thus surveyed, measured, viewed or culled, that he has no others on board of the like description, and that he will not take any others.

Penalty for surveyor or culler to neglect or refuse oath of office, &c.
Ibid. § 23.

10. If any person, duly elected a surveyor, measurer, viewer or culler of any of said articles under the provisions of this chapter, neglects or refuses to take the oath of his office and to serve therein, he shall forfeit three dollars to the use of the town, and another person shall be elected to his place, who shall take the oath and serve as aforesaid under the like penalty; and the like proceedings shall be had, until the office is filled; or if any such officer duly qualified unnecessarily refuses or neglects to attend to the duties of his office when requested, he shall forfeit three dollars; and if he connives at or willingly allows any breach of the provisions hereof, or practices any other fraud or deceit in his official duties, he shall forfeit thirty dollars to the use aforesaid.

Penalties, how recovered.
Ibid. § 24.

11. All the pecuniary penalties aforesaid may be recovered by action of debt, indictment, or complaint, and all other forfeitures, by a libel filed according to law by the treasurer of the town interested therein, or by any inhabitant thereof.

Duty of surveyors of logs.
Ibid. § 25.

12. Surveyors of logs may inspect,[1] survey and measure all mill logs floated or brought to market, or offered for sale in their respective towns and divide them into several classes, corresponding to the different quality of boards and other sawed lumber, which may be manufactured from them; and they shall give certificates under their hands, of the quantity and quality thereof to the person at whose request they are surveyed.

[1] His decision, in absence of fraud, conclusive. Berry *v.* Reed, 53 Maine, 487.

For liens on lumber and their enforcement, see R. S., 1871, c. 91, §§ 34 and 35.

Lunatics.

Statutes.

1. Municipal officers may decide on cases and commit to hospital with certificate, and keep record.
2. May certify inability of relations to support.
3. Towns to pay for pauper insane persons.
4. Towns liable when persons are unlawfully committed.
5. Towns have remedy against persons liable for support of insane pauper.
6. Those liable for support may apply for discharge of patient.
7. Overseers of poor to remove, when notified.
8. How person discharged to be removed.
9. Towns of less than 200 inhabitants not liable for removal.
10. Insane persons having no legal settlements, expenses how to be paid.

1. All insane persons, not sent to any insane hospital, shall be subject to examination, as hereinafter provided. The municipal officers of towns shall constitute a board of examiners, and, on complaint in writing of any relative or justice of the peace of their town, they shall immediately inquire into the condition of any insane person therein; call before them all testimony necessary for a full understanding of the case; and if they think such person is insane, and that his comfort and safety, or that of others interested, will thereby be promoted, they shall forthwith send him to the hospital, with a certificate, stating the fact of his insanity, and the town in which he resided or was found at the time of examination, and directing the superintendent to receive and detain him till he is restored or discharged by law, or by the superintendent and trustees. And they shall keep a record of their doings, and furnish a copy to any interested person requesting and paying for it. In preliminary proceedings the testimony of two respectable physicians is required to establish insanity. Clause eight, section four

Municipal officers to decide on cases and commit to hospital with certificate; keep a record of doings. R. S., 1871, c. 143, § 12.

Two physicians required to establish insanity. 1874, c. 256.

Non compos not treated as insane person. 1874, c. 213. 1876, c. 117.

May certify inability to pay for his support, and treasurer may charge State one dollar per week.
R. S. 1871, c. 143, § 13.
1873, c. 151.

of chapter one of Revised Statutes, relating to non-compos persons does not apply to this section.

2. The officers ordering the commitment of a person unable to pay for his support, may certify in writing to the trustees that fact, and that he has not relations liable and of sufficient ability to pay for it; and if the trustees are satisfied that such certificate is true, the treasurer of the hospital may charge to the State one dollar per week for his board, and deduct it from the charge made to the patient or town for his support.

EXPENSES OF SUPPORTING THE INSANE AT THE HOSPITAL.

Towns, where insane person resided or was found, pay for support, unless a bond given for it.
R. S., 1871, c. 143, § 18.

3. The certificate of commitment to the hospital, after a legal examination, shall be sufficient evidence, in the first instance, to charge the town, where the insane resided, or was found at the time of his arrest, for the expenses of his examination, commitment, and support in the hospital, but when his friends or others file a bond with the treasurer of the hospital, such town shall not be liable for his support, unless new action is had by reason of the inability of the patient or his friends longer to support him; and such action may be had in the same manner, and before the same tribunal, as if he had never been admitted to the hospital.

Do so when unlawfully committed, and expense of removal.
Ibid.[1] § 19.

4. The person or town, liable for the support of a person when lawfully committed to the hospital, shall be liable therefor, and for the expenses of his removal, when unlawfully committed and removed; but the expenses of such removal are not to exceed ten cents per mile from the hospital to the place of commitment.

Towns have remedy against the person, or those liable for his support as a pauper.
Ibid. § 20.
1872, c. 54.

5. Any town, thus made chargeable in the first instance, and paying for the commitment and support of the insane in the hospital, may recover the amount paid of the insane, if able, or of persons legally liable, for his support, or of the town where his legal settlement is, as if incurred for the ordinary expenses of any pauper; but if he has no legal settlement in the State, such

[1] Hospital must be paid before right of action accrues. Bangor *v.* Fairfield, 46 Maine, 558. Original record of town admissible, Jay *v.* Carthage, 48 Maine, 353. See Waltham *v.* Brookline, 119 Mass., 479.

expenses shall be refunded by the State; and the governor and council shall audit all such claims, and draw their warrent on the treasurer therefor.[2] No insane person shall suffer any of the disabilities incident to pauperism, nor be hereafter deemed a pauper, by reason of such support. The time insane person is supported shall not operate on question of settlement.

DISCHARGE OF THE INSANE.

Those liable for his support may apply for discharge. R.S., 1871, c. 143, § 21.

6. When any friend, person, or town, liable for the support of any patient, who has been in the hospital six months, not committed by order of the supreme judicial court, nor inflicted with homicidal insanity, thinks he is unreasonably detained, he may apply to the municipal officers of the town where the insane resides, and they shall inquire into the case, and summon before them any proper testimony, and their decision and order shall be binding on the parties. They shall tax legal costs and decide who shall pay them. If such application is unsuccessful, it shall not be made again till the expiration of another six months.

Municipal officers to decide.

Overseers of poor to remove when notified so to do. Ibid. § 22.

7. When the overseers of any town, liable for the support of a patient at the hospital, are notified by mail by the superintendent, that he has recovered from his insanity, they shall cause him to be removed to their town; and if they neglect it for fifteen days, the superintendent shall cause it to be done at the expense of such town.

How persons discharged shall be removed. Town liable upon notice for costs of removal. Ibid. § 23.

8. When any patient is discharged from the hospital, by the trustees, they shall cause the selectmen of the town, or the mayor of the city from which such patient was received, to be immediately notified by mail, and on receipt of such notice said town or city shall cause such patient to be forthwith removed thereto; and if they neglect such removal for thirty days thereafter, such patient may be removed to said town or city by the trustees, or their order; and the superintendent may maintain an action in his name, against such city or town, for the recovery of all expenses necessarily incurred in the removal of such patient.

[2] Bowdoinham *v.* Phippsburg, 63 Maine, 497.

Towns of less than two hundred inhabitants not liable for removal.
Ibid. § 24.

9. The preceding sections shall not apply to towns having less than two hundred inhabitants; but all insane persons found, and having their residence in such towns, who have no settlement within any town of this State, and who have no means of their own for support, or are without relatives able and liable to support them, shall be supported in the hospital at the expense of the State.

GUARDIANS FOR SUCH AS ARE SENT TO THE HOSPITAL.

Judge of probate may appoint guardians for persons sent to hospital; their duties and compensation.
Ibid. § 25.

10. When any man or unmarried woman, of twenty-one years of age, is sent to the hospital for insanity, the municipal officers of the town where such insane resides, may apply to the judge of probate for the same county for the appointment of a guardian, when they think it for the interest of the insane and to prevent waste of his property, and the judge, on their certificate to that effect, without notice to the insane, shall forthwith appoint some suitable guardian of the same county, who shall give bond as in other cases, and have reasonable compensation for his services, to be allowed by the judge and paid out of the estate; but shall not be required to return any inventory, or exercise any other powers or duties of guardian for one year after his appointment, except to provide for the support of the insane and his family, and prevent waste of his property.

Manufacturing[1] Establishments.

Statutes.

1. Exempt from taxation, not exceeding ten years, provided, &c.
2. Children under fifteen not to be employed.
3. Penalty.
4. No person under sixteen to be employed more than 10 hours a day.

1. All manufacturing establishments, and all establishments for refining, purifying or in any way enhancing the value of any article or articles already manufactured, hereafter, erected by individuals, or by incorporated companies, and all the machinery and capital used for operating the same, together with all such machinery hereafter put into buildings already erected, when the amount of capital invested exceeds the sum of two thousand dollars, are exempted from taxation for a term not exceeding ten years from the time the city or town in which such manufacturing establishments or refineries may be located, shall in a legal manner assent to such exemption, which assent shall have the force of a contract and be binding for the time specified, but all property so exempted shall be entered from year to year upon the assessment books and returned with the valuation of the several towns and cities, when required by the state for the purposes of making the state valuation.

Manufacturing establishments, &c. Act March 8, 1864, c. 234, § 1, and R. S., 1871, c. 6, § 6.

—exempt from taxation, not exceeding ten years.

—capital.

2. No child can be employed or suffered to work in a cotton or woolen manufactory, without having attended a public school, or a private one taught by a person qualified to be a public teacher, if under twelve years of age, four months, if over twelve and under fifteen years of age, three months of the the twelve, next preceding such employment, in each year. A certificate under oath of

Children under 15 years of age not to be employed without proof of schooling. R. S., 1871, c. 48, § 15.

[1] See chapter on "Taxes."

Teacher's certificate.

such teacher, filed with the clerk or agent before employment, is to constitute the proof of such schooling.

Penalty on violation.

Ibid. § 16, and 1880, c. 221.

3. Any owner, agent or superintendent of such manufactory, for each violation of the provisions of the preceding section, forfeits one hundred dollars, to be recovered by indictment, one half to the prosecutor and the other to the town where the offense was committed, to be added to the its school money. Superintending school committees shall inquire into such violations and report them to a county attorney, who, on reception thereof, shall prosecute therefor.

No person under 16 years of age to be employed more than 10 hours a day.

R. S. 1871, c. 48. § 17.

4. No person under the age of sixteen years is to be employed by any corporation more than ten hours of a day. Any person violating this provision forfeits one hundred dollars, one-half to the town where the offense is committed, and the other to the use of the person employed; to be recovered by indictment.

Commercial Manures.

Statutes.

1. To be labelled.
2. Constituent parts must to be as labelled.
3. Terms "soluable," &c., defined.
4. Not to apply to manures from fish.

To be labelled with name of manufacturer and amount of certain constituents. R.S., 1871, c. 38, § 48.

1. Commercial manures sold or kept for sale in this State, shall have affixed to every barrel, bag or parcel thereof, which may contain fifty pounds or upwards, a printed label, which shall specify the name of the manufacturer, or seller, his place of business, and the percentage which it contains of the following constituents, to wit: Of soluble phosphoric acid; of insoluble phosphoric acid, and of ammonia; and whoever violates this provision, or affixes labels specifying a larger percentage of either of such constituents than is contained therein, shall be punished by a fine of ten dollars for the first, and twenty dollars for the second, and each subsequent offense; to be recovered on complaint before any tribunal of competent jurisdiction.

Purchaser may recover from seller if constituents are not as stated in label. Ibid. § 49.

2. Any purchaser of commercial manures bearing such label, and containing less percentage than stated therein, may recover from the seller, in an action for debt, twenty-five cents for every pound of soluble phosphoric acid; six cents for every pound of insoluble phosphoric acid, and thirty-five cents for every pound of ammonia deficient therein.

Term soluble defined. Ibid. § 50.

3. By the term soluble phosphoric acid, whenever used, is meant such acid in any form or combination readily soluble in pure water; and by the term insoluble phosphoric acid, is meant such acid in any combination which requires the action of acid upon it to cause it to become readily soluble in pure water.

These sections do not apply to manures prepared from fish.
Ibid. 51.

4. The three preceding sections, shall not apply to porgy chum, nor any manure prepared exclusively from fish, and sold as such, nor to any commercial manure which is sold at a price not exceeding one cent per pound.

Milk.

Statutes.

1. Inspectors of milk.
2. Duties.
3. Vessels to be sealed and marked.
4. Penalty for selling bad milk.

Ordinances.

1. Inspectors.
2. Duties of people in milk business.
3. Duties of inspectors.
4. Compensation.

Statutes.

Inspectors of milk shall be appointed in towns of not less than 3000 inhabitants. R.S., 1871, c. 38, § 44.

1. The municipal officers of towns containing not less than three thousand inhabitants shall, upon the application of ten legal voters therein, annually appoint one or more persons to be inspectors of milk, who shall, before entering upon the discharge of their duties, be sworn, and shall give notice of their appointment by publishing the same two weeks in a newspaper published in their towns, or if no newspaper is published therein, by posting up such notice in two or more public places in said town.

Duties. Ibid. § 45.

2. Inspectors shall keep an office and books for the purpose of recording the names and places of business of all persons engaged in the sale of milk within their limits. They may enter any place where milk is kept or stored for sale, and examine all carriages used in the conveyance of the same, and when they have reason to believe any milk found therein is adulterated they shall take specimens thereof, and cause the same to be analyzed, or otherwise satisfactorily tested, the result of which they shall preserve as evidence, and shall prosecute for all violations of the two following sections.

Vessels to be annually sealed. Ibid. § 46. 1871, c. 217.

3. All measures, cans, or other vessels used in the sale of milk shall annually be sealed by the sealer of weights and measures by milk measure, and shall be marked by the sealer with figures indicating the quantity which they hold, and whoever fraudulently sells by any other measure, can or vessel, shall forfeit twenty dollars for each offence.

Penalty for selling or offering injurious milk. R. S. 1871, c. 38, § 47.

4. Whoever, acting for himself or as the employee of another, knowingly or wilfully sells or offers for sale, milk from cows diseased, sick, or fed upon the refuse of breweries or distilleries, or upon any substance deleterious to its quality, or milk to which water is added, or any foreign substance, shall forfeit twenty dollars for the first, and fifty dollars for every subsequent offense; to be recovered by complaint or indictment before any court having jurisdiction of the same, to the use of the town where the offense is committed.

Ordinances.

Milk inspector. Ord. Jan. 12, 1878.

1. There shall be appointed by the board of mayor and aldermen, for the remainder of the present municipal year, and thereafter annually, an inspector of milk, who shall be sworn, give notice of his appointment, keep an office and books, and have all the powers and perform all the duties set forth and prescribed in the statutes of the State relating to the sale of milk and the inspection thereof.

Duty of persons in milk business. Ibid.

2. It shall be the duty of each person or firm, now or hereafter engaged in the business of selling milk within the limits of the city, to file annually with the inspector a statement of his name, residence and place of business, or, if he sells milk from a cart, of such fact, to the end that said statement may be registered in a book kept for the purpose; and in default of so doing said person or firm shall forfeit the sum of twenty dollars to the use of the city, to be recovered in any court of competent jurisdiction.

3. It shall be the duty of the inspector to receive and register said statement, and grant a certificate

of such registration upon the request of the person or firm filling the same. The inspector, when thereunto requested in writing by any citizen of Portland, shall make inspection within the limits of the city of any milk sold or offered or intended for sale within the same, and also upon his own motion, without previous notice, as often as once a year, and oftener at his discretion, shall visit all places of business and carts in and from which milk is sold within the city, and make thorough inspection of the kind and quality of milk found in said places of business and carts offered or intended for sale. It shall also be the duty of said inspector to prosecute all violations of the statutes of the State and ordinances of the city relating to the sale of milk. And at the close of each municipal year said inspector shall make a detailed report to the board of mayor and aldermen.

Duties of inspectors.

Ibid.

4. The compensation of said inspector shall be as follows: Twenty-five cents for making the before required registration and granting a certificate therefor, to be paid by the person requesting the same. Fifty cents for making inspection of milk, to be paid by the person requesting the same to be made; and said inspector shall be entitled to one-half of all forfeitures accruing to the city in all prosecutions instituted by him for violation of the statutes of the State or ordinances of the city relating to the sale of milk.

Compensation.

Ibid.

Municipal[1] Court.

CONSTITUTIONAL PROVISION.

1. Appointment of Municipal Judges by the Executive Power.

Statutes.

1. Court established, one judge.
2. Judge's jurisdiction as justice of the peace, concurrent or exclusive.
3. Not to act as counsellor or attorney, when, &c.
4. His jurisdiction in cases of larceny and offenses against city by-laws.
5. Houses of ill-fame.
6. Right to appeal.
7. Fines, how disposed of.
8. Jurisdiction though the penalty accrues to the city.
9. Court to be held on Monday.
10. Recorder, how appointed and qualified, his duties and fees; writs to be under seal of court.
11. Recorder's powers in absence of judge.
12. Justice of peace substituted in absence of judge and recorder.
13. Provisions when office of judge is vacant.
14. Restrictions on justices of the peace in Portland.
15. Exceptions under the laws of the United States.
16. When recorder may issue warrants.
17. Salary of recorder.
18. Costs, how to be taxed.
19. Recorder during absence of judge, power in civil actions.
20. In case of vacancy of judge.
21. In case of vacancy of recorder, temporary appointment.
22. Judge, appointment of, tenure.
23. Salary, how fixed.

[1] For general provisions relating to jurisdiction of municipal courts of offences against liquor law; See R. S., 1871, c. 27, §§ 21, 44; in civil actions, Ibid. c. 83, § 3: in case of cruelty to animals. Ibid. c. 124, § § 28, 35, Laws of 1875, c. 36. And for general duties for preservation of the peace, R. S. 1871, c. 130, § 1.

The municipal court of Portland has jurisdiction over all such matters as justices of the peace, at time of its establishment, might exercise irrespective of residence of parties, within the county. The act 1866. c. 27, does not affect or restrict the jurisdiction, Allen *v.* Somers, 68 Maine, 247. It has jurisdiction over offence of truancy. O'Malia *v.* Wentworth, 65 Maine, 129.

By ordinance all penalties and fines under ordinances are to be recovered in municipal court.

CONSTITUTIONAL PROVISION.

1. Judges of municipal and police courts shall be appointed by the executive power, in the same manner as other judicial officers, and shall hold their offices for the term of four years; *provided, however*, that the present incumbents shall hold their offices for the term for which they are elected.

Judges of municipal and police courts, appointment of.
Constitution, Resolve. Feb'y 25, 1875.

Statutes.

1. There is hereby established a municipal court for the city of Portland, to consist of one judge, who shall be appointed, commissioned and qualified, in the manner provided by the constitution of this State.

Court established. One judge.
1856, c. 204, § 1.

2. He shall, except where interested, exercise jurisdiction over all such matters and things within the county of Cumberland, as justices of the peace may exercise, and under similar restrictions and limitations; and concurrent jurisdiction with justices of the peace and quorum in case of forcible entry and detainer in said county; and exclusive jurisdiction where both parties interested, or the plaintiff and a person sued as trustee, are inhabitants of Portland.

Judge's jurisdiction as justices of the peace, concurrent or exclusive.
Ibid. § 2.

3. He shall not act as counsel or attorney in any case within the jurisdiction of said court, nor in any cause, matter or thing which may depend upon or relate to any cause cognizable by said court.

Judge not to act as counsel in certain cases.
Act, 1862, c. 151.

4. The said court may take cognizance of simple larcenies, when the property alleged to be stolen shall not exceed in value twenty dollars, and on conviction award such sentence as is by law provided for such ofienses; and have exclusive jurisdiction of all offenses against the by-laws of said city; and in prosecution on such by-laws, they need not be recited in the complaint nor in allegations therein be more particular than in prosecutions on a public statute.

His jurisdiction in cases of larceny and offences against city by-laws.
1856, c. 204, § 4.

5. The same proceedings may be had in the same manner, against persons keeping houses of ill-fame, for the purposes of lewdness or prostitution, on complaint, as before a justice of the peace.

Houses of ill-fame.
Ibid. § 5.

6. Any person may appeal from a sentence or judgment against him, to the then next term, for civil or

Right of appeal.
Ibid. § 6.

criminal business, as the case may require, of the court having jurisdiction within said county, by appeal from justices of the peace; and such appeal shall be taken and prosecuted in the same manner as from a sentence or judgment of a justice of the peace.

Fines to be accounted for. Ibid. § 7.

7. All fines and penalties awarded by said judge, shall be accounted for and paid over, as in case of those awarded by a justice of the peace.

Jurisdiction, though the penalty accrue to the city. St. 1856, c. 204, § 8.

8. The court shall have jurisdiction, though the penalty demanded in any action or prosecution accrues to the city of Portland.

Court to be held on Monday. Ibid. § 9, as amended by Act, 1859, c. 57. § 1.

9. The municipal court shall be held on Monday of each week, at nine of the clock in the forenoon, and no civil process shall be returnable at any other time.

Recorder, how appointed and qualified. His duties and fees. Writs to be under seal of court. Act, 1859, c. 57, § 2, as amending Act, 1856, c. 204, § 10.

10. There shall be a recorder of said court, who shall always be a justice of the peace, and duly qualified as such, and he shall be appointed by the governor, by and with the advice of the council; he shall be duly sworn as recorder, and shall keep a fair record of the proceedings of the court, and deliver copies, when required, for the same fees which are allowed to justices of the peace. All writs issued by said court shall be under its seal and bear test of the judge, and shall be signed by the recorder.

Recorder's powers in absence of judge. 1856, c. 204, § 11, as amended by private laws, 1863, c. 290, § 1. See § 19 of this title.

11. When the judge is absent, it shall be the duty of the recorder, and he shall have authority to exercise all the powers of the judge.

Justices of the peace substituted in absence of judge and recorder. 1856, c. 204, § 12.

12. If the judge and recorder are both necessarily absent, the judge may designate some justice of the peace duly qualified, to perform the duties of his office; or if the judge should not so designate a justice of the peace, the recorder may do it.

Provisions when office of judge is vacant. Ibid. § 13, as amended by private laws, 1863, c. 290, § 2. See § 20 of this title.

13. When the office of judge shall be vacant, the recorder shall finish the business pending before the court.

Restrictions on justices of the peace in Portland. Ibid. § 14, as amended by private laws, 1863, c. 290.

14. No justice of the peace residing in the city of Portland, shall in any manner take cognizance of, or exercise jurisdiction over any crime or offense, or in any civil action, wherein the judge is not a party interested; nor accept or receive any fee or reward therefor; and any such justice of the peace, by violating this

section, shall forfeit twenty dollars, to be recovered on indictment.

Exceptions under the laws of the United States. 1856, c. 204, § 15.

15. But nothing in the preceding section shall be construed as prohibiting the justices of the peace, residing in Portland, from exercising at all times, all the power and jurisdiction given them by any laws of the United States.

When recorder may issue warrants. Ibid. § 16.

16. When the judge is occasionally absent from the room or office in which the court is held, the recorder shall have power, on proper complaint, to issue warrants for the apprehension of persons charged with any criminal offence or breach of the peace; and such warrants shall have the same authority as if issued by the judge.

Salary of recorder. Act 1879, c. 150.

17. The salary of the recorder of the municipal court for the city of Portland, shall be eight hundred dollars per annum, in full for all services. Clerk hire for said recorder, two hundred dollars per annum. Said recorder shall account for all fees and pay the same to the county treasurer.

Costs how to be taxed. Act 1859, c. 57.

18. The costs recoverable by parties in said court, shall be as follows:—The plaintiff, if he prevail, shall, be entitled to recover one dollar for his writ, and the defendant, if he prevail, shall be entitled to recover an attorney fee of one dollar; and all other costs recoverable by either party, shall be taxed as before justices of the peace.

Recorder, duty of, in absence of judge. Act, 1863, c. 290, § 1.

19. During the temporary absence of the judge of the municipal court of the city of Portland, the recorder of said court is hereby authorized and empowered to try and determine civil actions and processes within the jurisdiction thereof.

—in case of vacancy of judge Ibid. § 2.

20. In case of vacancy by death, resignation or otherwise in the office of judge of said court, the recorder aforesaid may try and determine all actions, civil and criminal, within the jurisdiction of said court, until a judge shall be appointed and qualified.

Temporary appointment of recorder in case of vacancy 1879, c. 151.

21. In case of a vacancy in the office of recorder of the municipal court of Portland, by death or otherwise, the judge of said court may appoint some suitable person

to perform the duties of that office until the vacancy shall be filled in the manner provided by law.

Judge to be appointed. Tenure. Constitutional amendment, Feb'y 25, 1875. See § 1 of this title.

22. Judges of municipal and police courts shall be appointed by the executive power in the same manner as other judicial officers, and shall hold their offices for the term of four years.

Salaries, &c. R. S., 1871, c. 132, § 1. See full section.

23. The judges shall be duly sworn, and commence the discharge of their duties on the Monday following the day of their election. They hold their offices, and vacancies are filled, as provided in the constitution. Their salaries[1] shall be fixed by the municipal officers, of their towns and paid quarterly from the treasuries thereof; and all fees received by them shall be paid quarterly into said treasuries, except where their compensation is fixed by law, by the allowance to them in whole or in part of the fees accruing in their courts.

[1] Salary of present Judge for 1880 and '81, is fixed at $1000.

Nuisances.[1]

Statutes.[2]

1. Dangerous buildings may be adjudged nuisances.
2. Owner aggrieved, may apply to supreme court.
3. Same subject.
4. Costs, how paid.
5. Above not in force unless accepted.
6. Advertisements on fences prohibited. Penalty.
7. Certain nuisances described.
8. Places assigned for unwholesome employments.
9. When places assigned become offensive, what.
10. Buildings for manufacture of gunpowder, when nuisances.
11. Burning bricks in prohibited places, nuisance.
12. Stationary steam engine not be used without license.
13. Duty of officers on application for license.
14. Engine erected without license, a nuisance.
15. Engine. Power of town officers to remove.
16. Steam whistes.

Ordinances.

1. Steam whistles. Forbidden.
2. Steam whistles. Penalty.
3. Steam whistles. Not applying to Locomotives.

Statutes.

1. When the municipal officers of any town, after personal notice in writing to the owner of any burnt, dilapidated or dangerous building, or publication in a newspaper in the county three weeks successively, or

Dangerous buildings may be adjudged nuisances; proceedings. R. S., 1871, c. 17, § 26.

[1] For judicial decisions as to what constitutes a nuisance, and giving a remedy by abatement, see the following cases: as to building in public street, and the necessary destruction of same by law, or the wrongful use of a building, harmless in itself. Brightman *v.* Bristol, 65 Maine, 426. Blacksmith shop, when a nuisance, Norcross *v.* Thoms, 51 Maine, 503. Railroad crossings, State *v.* P. S. & P. R. R., 58 Maine, 46. See also Swett *v.* Sprague, 55 Maine, 190; Davis *v.* Bangor, 42 Maine, 522; Brown *v.* Black, 43 Maine, 443; Barnes *v.* Hathorn, 54 Maine, 124; Portland *v.* Richardson, 54 Maine, 46; Cumb. & Oxford Canal *v.* Portland, 62 Maine, 504; Franklin Wharf *v.* Portland, 67 Maine, 46.

[2] The provisions of chapter 17, of the revised statutes of 1871, are made to apply to tippling shops, act 1873, c. 152.

if no newspaper is published in the county, then in the State paper, and after a hearing of the matter, shall adjudge the same to be a nuisance or dangerous, they may make and record an order prescribing what disposition shall be made thereof, and thereupon the town clerk shall deliver a copy of such order to a constable, who shall serve such owner, if resident within the State, with an attested copy thereof, and make return of his doings thereon to said clerk forthwith; if the owner or part owner is unknown, or resides without the State, such notice shall be given by publication in the State paper, or in a paper published in the county three weeks successively. If no application shall be made to the supreme judicial court, or a justice thereof, as is hereafter provided, the municipal officers of such town, shall cause said nuisance to be abated, removed or altered in compliance with their order, and all expenses thereof shall be repaid to the town within thirty days after demand; or may be recovered of such person by an action for money paid.

Powers of aldermen and selectmen.

Owner to be served with copy of order.

Return of service.

Nuisance may be abated.

Owner to pay expense.

Payment enforced.

2. Any owner aggrieved by any such order may apply to the supreme judicial court, if in session in the county or to any justice thereof, in vacation, for a jury, and such court or justice shall forthwith order a warrant for a jury to issue, to be empanneled by the sheriff as is provided by section ten of the eighteenth chapter of the revised statutes. Such application shall be made within five days after such order is served on such owner, and the jury shall be empanneled within seven days from the issuing of the warrent.

Owner aggrieved may apply to supreme court, or justice of, for a jury.

Jury, how empanneled.

Application, when to be made.

Ibid. § 27.

3. The jury may find a verdict, either affirming or annulling the said order, or making alterations therein, which shall be returned forthwith to the justice issuing the warrant. He may accept or reject it, and issue a new warrant. If the court is not in session, the action shall be entered on the docket of the preceding term; exceptions taken by either party may be allowed, or execution may issue as of that term, and if the verdict is finally accepted, the justice may issue the proper process for enforcing it.

Verdict, what it may be.

—return of.

—may be accepted or rejected.

Action, how entered, if.

Exceptions taken; proceedings.

Verdict enforced.

Ibid. § 28.

4. If the verdict affirms such order, costs shall be recovered by the town against such applicant. If it annuls such order in whole, costs shall be recovered by the applicant against such town, and in case such verdict shall alter such order in part, the court may render such judgment as to costs as justice shall require.

Costs, how to be paid. Ibid. § 29.

5. The four preceding sections shall not be in force in any town unless adopted at a legal meeting thereof.[3]

Not applicable unless by vote. Ibid. § 30.

6. Whoever advertises his wares or occupation by painting notices of the same on, or affixing them to fences or other private property, or on rocks or other natural objects, without the consent of the owner, or if in the highway or any other public place without the permission of the mayor of cities, selectmen of town or assessors of plantations, shall be punished by fine of ten dollars for each offense, to be recovered on complaint; one-half to the prosecutor, and one-half to the town in which the offense is committed.

Advertising on fences, rocks, &c., without permission. R. S., 1871, c. 127, § 8.

Penalty.

7. The erection,[4] continuance or use of any building or other place for the exercise of a trade, employment, or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public; causing or suffering any offal, filth, or noisome substance to be collected, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor, or collection of water; corrupting, or rendering unwholesome, or impure, the water of a river, stream, or pond; unlawfully diverting it from its natural course or state to the injury or prejudice of others; and the obstructing or incumbering by fences, buildings or otherwise, the highways, private ways, streets, alleys, commons, common landing places, or burying grounds, shall be deemed nuisances within the limitations and exceptions hereafter mentioned.

Certain nuisances described. R. S., c. 17, § 5.

8. The municipal officers[5] of a town, when they judge it necessary, may assign some place or places therein for

Places to be assigned for unwholesome employments. Ibid. § 6.

[3] Adopted by city council October 3, 1881.

[4] See cases cited on first page, title "Nuisances," *ante*, and especially Franklin Wharf *v.* Portland, 67 Maine, 46.

[5] State *v.* Hart, 34 Maine, 36.

the exercise of any trade, employment, or manufacture aforesaid, and forbid their exercise in other places, under penalty of being deemed public or common nuisances and liable to be dealt with as such. All such assignments shall be entered in the records of the town and may be revoked when said officers judge proper.

Proceedings when places so assigned become offensive. Ibid. § 7.

9. When any place or building so assigned becomes a nuisance, offensive to the neighborhood, or injurious to the public health, any person may complain thereof to the supreme judicial court, and, if after notice to the party complained of, the truth of the complaint is admitted by default, or made to appear to a jury on trial, the court may revoke such assignment, and prohibit the further use of such place or building for such purposes, under a penalty not exceeding one hundred dollars for each month's continuance after such prohibition, to the use of said town; and may order it to be abated, and issue a warrant therefor, or stay it as hereafter provided; and if the jury on said trial, acquits the defendant, he shall recover costs of the complainant.

When buildings for the manufacture of gunpowder shall be deemed nuisances. Ibid. § 8. And 1877, c. 219.

10. If a person carries on the business of manufacturing gunpowder, or of mixing or grinding the composition therefor, in any building within eighty rods of any valuable building not owned by such person or his lessor, erected when such business was commenced, the former building shall be deemed a public nuisance; and such person may be prosecuted accordingly.

Burning bricks in parts of a town prohibited by vote, nuisances. R. S., 1871, c. 127, § 9.

11. A town, at its annual meeting, may prohibit the burning of bricks, or the erecting of brick kilns within such parts thereof as they deem for the safety of the citizens or their property. And if any person, by himself or others, violates such prohibition, the municipal officers shall cause said bricks or brick kiln to be forthwith removed, at the expense of the owner thereof; and the offender shall be liable to a fine not exceeding two hundred dollars to the use of said town; and if said bricks or brick kiln are not removed before a conviction, the court may issue a warrant for the removal thereof, or stay it as hereafter provided.

12. No stationary steam engine shall be erected in a town, unless the municipal officers have previously granted license therefor, designating the place where the buildings therefor shall be erected, the materials and mode of construction, the size of the boiler and furnace, and such provisions as to height of chimneys or flues, and and protection against fire and explosion, as they judge proper for the safety of the neighborhood. Such license is to be granted on written application, and recorded in the town records, and a certified copy of it furnished, without charge, to the persons applying for the license.

Stationary steam engine not to be used without license. Ibid. § 17.

13. When application is made for such license, said officers shall assign a time and place for its consideration, and give public notice thereof at least fourteen days beforehand as they think proper, at the expense of the applicant, that all persons interested may be heard before granting a license.

Duty of town officers on application for a license. Ibid. § 18.

14. Any such engine[6] erected without license shall be deemed a common nuisance without any other proof than its use.

Such engine erected without license to be deemed a nuisance. Ibid. § 19.

15. Said officers shall have the same authority to abate and remove a steam engine, erected without license, as is given to the health committee or health officer in chapter fourteen, Revised Statutes, for the removal or discontinuance of the nuisances therein mentioned.

Power of town officers to remove such engine. Ibid. § 20.

16. The city of Portland is hereby authorized to regulate or prohibit the use of all or any kind or class of steam whistles within the city limits by ordinance, and impose penalties for the breach thereof upon persons owning or using such whistles, or upon both, not exceeding one hundred dollars for each offence, to be recovered by complaint or indictment in any court of competent jurisdiction, and all penalties recovered shall be for the use of the city.

Steam whistles, and the proper use thereof under authority of city. Act 1874, c. 524.

Ordinances.

1. The use of all kinds of steam whistles within the city limits is prohibited, except as hereinafter provided.

Forbidding steam whistles. Ordinance June 25, 1874.

[6] Brightman *v.* Bristol, 65 Maine, 426.

Penalty.

2. If any person shall, within the city limits, use any steam whistle, the person so using the same, and also the owner of such steam whistle, shall severally forfeit and pay a penalty of fifty dollars every time such whistle shall be used in violation of the provisions of this ordinance.

Not to apply to locomotives.

3. This ordinance shall not apply to the use of whistles on locomotives when absolutely necessary to call for brakes to be applied to prevent collision or damage, or to the use of whistles on stationary engines for the purpose of notifying employees when the works are to start up or shut down, or the use of steam fire engine whistles in time of fire.

[See title "HEALTH."]

Ordinances and By-Laws.[1]

Statutes.

1. What by-laws and ordinances towns may make.
2. Protection of trees, hydrants, &c.

Ordinances.

1. Enacting style of city ordinances.
2. Ordinances to be published.
3. Time of ordinances taking effect.
4. Construction of ordinances, rules applicable.
5. Fines to enure to use of city, except, &c.

Statutes.

Towns and cities may make by-laws. R. S., 1871, c. 3, § 40.

1. Towns, cities, and village corporations may make such by-laws or ordinances as they think proper, not inconsistent with the laws of the State, and enforce them by suitable penalties, for the purposes and with the limitations following:

For managing prudential affairs. Ibid.

First. For managing their prudential affairs as they judge conducive to their peace and good order, and annex penalties not exceeding five dollars for one offence, subject to the approval of the county commissioners, or a judge of the supreme judicial court.

Police regulations. See R. S., 1871, c. 25.

Second. For establishing such police regulations as they may deem necessary for the prevention of crime, the protection of property and the preservation of good order.

Infectious diseases.

Third. Respecting infections, diseases and health.

Going at large of dogs, &c.

Fourth. For regulating the going at large of dogs, swine, and cattle therein.

[1] An ordinance is invalid if repugnant to a general law of the State. Burke *v.* Bell, 36 Maine, 317. Ordinances, if unreasonable or oppressive, are void. Jones *v.* Sanford, 66 Maine, 585. No by-law can enlarge corporate powers. Andrews *v.* W. M. F. Ins. Co., 37 Maine, 256. Mayor and aldermen have no power to permit a violation of an ordinance. Commonwealth *v.* Worcester, 3 Pick., 462. As to time when ordinances take effect see 109 Mass., 355.

Wood, bark, coal.

Fifth. Respecting the measure and sale of wood, bark, and coal brought to market, and the teams coming therewith.

Sidewalks, &c.

Sixth. For reserving and setting off such portions of their streets for sidewalks as they deem proper, and keeping them clear of snow and other obstructions, and for planting and preserving trees by the side thereof.

Wooden buildings. See R. S., c. 17, § 26.

Seventh. Respecting the erecting of wooden buildings therein, or buildings, the exterior of which shall be in part of wood, and defining their proportions and dimensions; and any building erected contrary to a by-law or ordinance adopted under this specification shall be deemed a nuisance and dealt with accordingly.

Omnibuses, stages and fares.

Eighth. For the due regulation of omnibuses, stages, hacks, coaches, wagons, carts, drags, hand-carts, and all other vehicles, used wholly or partly therein for business, pleasure, or the conveyance of passengers by horse-power or otherwise, and by establishing the rates of fare, their routes and places of standing, and in any other respect; but by-laws and ordinances for this purpose shall be published one week at least before they take effect, in some newspaper printed therein, and penalties for their breach shall not exceed twenty dollars for one offence, to be recovered by complaint to the use of such city, town or corporation.

By-laws to be published.

Protection from falling ice and snow.

Ninth. For the effectual protection of persons against injury from the sliding of snow and ice from the roofs of buildings therein; but the authorities of such cities, towns and corporations shall notify the owners of the buildings of by-laws or ordinances adopted under this specification, and if they do not comply with them in thirty days after notice, they shall be liable for all injury sustained by any person in consequence thereof; and said authorities, at the expense of their cities, towns or corporations, may place the required guards or other obstructions on the roofs of such buildings, and the reasonable charges therefor may be recovered of such owners.

Tenth. Any city may establish localities for, and regulate the sale of fresh meat and fish therein, and fix penalties for breach thereof. Sale of fresh meat and fish.

2. Towns,[2] cities and village corporations may make such by-laws as they deem proper, respecting the location of trees and hydrants within the limits of their roads, ways and streets; and no trees, lamp posts, posts or hydrants which are now located or shall hereafter be located in accordance with the requirements of such by-laws and ordinances, shall be deemed a defect in such road, way or street. Protection of trees, hydrants, &c. Those located according to ordinances not a defect. 1871, c. 178.

Ordinances.

1. All by-laws of the city shall be denominated ordinances, and the enacting style shall be, "Be it ordained by the mayor, aldermen, and common council of the city of Portland, in city council assembled, as follows:" Enacting style of city ordinances. Rev. Ord. 1868.

2. The ordinances of the city council shall be published and promulgated by inserting the same two weeks successively in one or more newspapers published in the city of Portland; but this section is directory, merely, and a failure to comply with the same, shall not affect the validity of any order or ordinance. Ordinances to be published. Ibid.

3. Any ordinance enacted by the city council shall take effect and go into operation in ten days from and after the day on which it shall have been approved by the mayor, unless the provisions of any ordinance shall otherwise prescribe. Time of ordinance taking effect. Ibid.

4. In the construction of ordinances the same rules shall be observed so far as they may be applicable, as are provided in the revised statutes of this State, chap. 1, sect. 4, unless such construction would be inconsistent with the manifest intent of the city council, or repugnant to the context of the same ordinance. Construction of ordinances, rules applicable. Ibid.

[2] Also to regulate sale of old junk, &c., 1881, c. 11.

Fines to enure to the use of city, except.] Ibid.

5. All fines and penalties for the violation of any of the ordinances of the city council, or any of the orders of the mayor and aldermen, shall be recoverable by prosecution in the municipal court of Portland, or any court which may be established in place thereof, and when recovered, shall enure to the use of the city, and shall be paid into the city treasury, except in those cases where it may be otherwise provided by the acts of the legislature, or the ordinances of the city.

Paupers.[1]

Statutes.

1. Election of overseers of poor.
2. Settlement, how acquired.
   - I. Married women.
   - II. Legitimate children.
   - III. Illegitimate children.
   - IV. Division of towns.
   - V. Apprenticeship.
   - VI. Residence five years.
   - VII. Residence March 21, 1821.
   - VIII. Incorporation of towns.
3. Settlements remain till new ones acquired.
4. " not affected by revision of laws, when.
5. Duty of towns.
6. " overseers.
7. Kindred liable.
8. " may be assessed, how.
9. Pauper children may be bound by overseers.
10. Overseers to inquire as to treatment of bound children.
11. Damages for ill treatment of children.
12. Child becoming of age may sue master.
13. Child running away may be arrested.
14. Child discharged on complaint of master.
15. Pauper adults may be bound for one year.
16. Persons bound may complain to court.
17. Overseers to relieve all destitute persons.
18. Duties of overseers where there is a jail.
19. Notice to town liable for relief.
20. Answer to notice to be returned within two months.
21. Notice by mail sufficient.
22. Persons removed, returning, may be sent to house of correction.
23. Foreign paupers may be removed to the place where they belong.

[1] For definition of "poor persons," see 10 Cushing, 239. Concerning authority of overseers to contract debts for supplies for paupers, see 8 Allen, 73.

24. When the towns are liable to inhabitants for private support of paupers.
25. Overseers to complain of intemperate persons.
26. Towns may recover of paupers.
27. Overseers to take charge of property of deceased paupers.
28. Overseers may prosecute and defend.
29. Penalty for bringing paupers into a town.
30. Liability of common carriers for bringing in non-resident paupers.
31. Soldier not to be considered pauper.

Statutes.

Election of overseers of poor, city charter, 1863, § 8.

1. There shall be elected at the first election of subordinate officers, in Portland under this act, in March, twelve persons for overseers of the poor and work house; four of whom shall be elected for one year, four for two years, and four for three years; and all subsequent annual elections shall be for the term of three years.

Settlement, how acquired. R. S., 1871, c. 24, § 1.

2. Settlements, subjecting towns to pay for the support of persons on account of their poverty or distress, are acquired as follows:

Married women.

I. A married woman[2] has the settlement of her husband, if he has any in the State; if he has not, her own settlement is not affected by her marriage. When it appears in a suit between towns involving the settlement of a pauper, that a marriage was procured to change it by the agency or collusion of the officers of either town, the settlement is not affected by such marriage.

Legitimate children.

II. Legitimate children[3] have the settlement of their father, if he has any in the State; if he has not, they have the settlement of their mother within it; but they do not have the settlement of either, acquired after they are of age and have capacity to acquire one.

[2] For general rule, see Hallowell *v.* Augusta, 52 Maine, 216; Howland *v.* Burlington, 53 Maine, 54; Bucksport *v.* Rockland, 56 Maine, 22. As to wife of an alien, Sanford *v.* Hollis, 2 Maine, 194. Augusta *v.* Kingfield, 36 Maine, 235. Also see 10 Cush., 517, 105 Mass., 293.

[3] Hampden *v.* Brewer 24 Maine, 281; Brewer *v.* East Machias, 27 Maine, 489; Farmington *v.* Jay, 18 Maine, 376; Livermore *v.* Peru, 55 Maine, 469, 106 Mass., 598, 37 N. H., 441.

III. Children, legitimate, or illegitimate,[4] do not acquire a settlement by birth in the town where they are born. Illegitimate children have the settlement of their mother, at the time of their birth; but when the parents of such children born after March 24, 1864, intermarry, they are deemed legitimate, and have the settlement of their father. Illegitimate children.

IV. Upon division of a town, a person having a settlement therein and absent at the time, has his settlement in that town, which includes his last dwelling place in the town divided. When part of a town is set off from it and annexed to another, the settlement of a person absent at the time of such annexation is not affected thereby. When a new town, composed in part of one or more existing towns, is incorporated, persons settled in such existing town or towns, who have begun to acquire a settlement therein, and whose homes were in such new town at the time of its incorporation, have the same rights incipient and absolute respecting settlement, as they would have had in the town where their homes formerly were.[5] Division of towns.

V. A minor who serves as an apprentice in a town four years, and within one year thereafter sets up such trade therein, being then of age, has a settlement therein. Apprenticeship.

VI. A person[6] of age, having his home in a town five successive years without receiving, directly or indirectly, supplies as a pauper, has a settlement therein. Residence five years.

VII. A person having his home in a town on March twenty-one, eighteen hundred and twenty-one, without having received supplies as a pauper within one year before that date, acquired a settlement therein. Residence Mar. 21, 1821.

VIII. Persons having their homes in an unincorporated place for five years without receiving supplies as a pauper, Incorporation of towns.

[4] Fayette *v.* Leeds, 10 Maine, 409; Hallowell *v.* Augusta, 52 Maine, 216; Raymond *v.* North Berwick; 60 Maine, 114, 8 Cush., 75, 8 Allen, 551.

[5] Lewiston *v.* Auburn, 32, Maine, 492; Freeport *v.* Pownal, 23 Maine, 472; Ripley *v.* Levant, 42 Maine, 308.

[6] Brewer *v.* Linneus, 36 Maine, 428; Ellsworth *v.* Gouldsboro', 55 Maine, 94; Burlington *v.* Swanville, 64 Maine, 78; Glenburn *v.* Naples, 69 Maine, 68; Lewiston *v.* Harrison, 69 Maine, 68. As to effect of emancipation, see Veazie *v.* Machias, 49 Maine, 105; Monroe *v.* Jackson, 55 Maine, 55.

and having continued their homes there to the time of its incorporation, acquire settlements therein. Those having homes in such places less than five years before incorporation, and continuing to have them there afterwards, until five years are completed, acquire settlements therein.

Settlements remain till new ones acquired. R. S., 1871, c. 24, § 2.

3. Settlements[7] acquired under existing laws, remain until new ones are acquired. Former settlements are defeated by the acquisition of new ones.

Revision of laws does not affect them. Ibid. § 3.

4. Persons who have begun to acquire settlements under existing laws, are not to be affected by a repeal of them, and a re-enactment of their provisions in substance.

Duty of towns. Ibid. § 4.

5. Towns are to relieve persons having a settlement therein, when on account of poverty, they need relief. They may raise money therefor as for other charges of the town, and may at annual meeting choose not exceeding twelve legal voters to be overseers.

Overseers' duties. Ibid. § 5.

6. Overseers are to have the care of persons chargeable to their town, and are to cause them to be relieved and employed, at the expense of the town, and as the town directs, when it does direct.

Poor not to be sold.

Persons chargeable are not to be set up and bid off at auction, either for support or service; but towns at their annual meetings, when the warrant contains an article for the purpose, may contract for the support of their poor for a term not exceeding five years.

Towns may contract. Ibid. § 6.

Kindred liable. Ibid. § 9.

7. The father, and mother, grandfather, and grandmother, children, and grand-childen, by consanguinity, living within the State, and of sufficient ability, are to support persons chargeable in proportion to their respective ability.

Court on complaint may assess them.

8. A town or any kindred,[8] who have incurred any expense for the relief of a pauper, may complain to the

[7] Monson *v.* Fairfield, 55 Maine, 117, 6 Cush., 61, 13 Gray, 586. As to emancipation, see Lowell *v.* Newport, 66 Maine, 78; Dennysville *v.* Trescott, 30 Maine, 470; Monroe *v.* Jackson, 55 Maine, 55; Veazie *v.* Machias, 49 Maine, 105; Frankfort *v.* New Vineyard, 48 Maine, 565; Orneville *v.* Glenburn, 70 Maine, 353; Hampden *v.* Troy, 70 Maine, 484.

[8] Hiram *v.* Pierce, 45 Maine, 367; Calais v. Bradford, 51 Maine, 414; Tracy *v.* Rome, 64 Maine, 201.

supreme judicial court in the county, where any one of such kindred resides; and the court may cause such kindred to be summoned, and upon a hearing or default, may assess and apportion a reasonable sum upon such kindred, as are found to be of sufficient ability, for the support of such pauper to the time of such assessment; and may enforce payment thereof by warrant of distress. Such assessment is not to be made to pay any expense for relief afforded more than six months before the complaint was filed.

Ibid. § 10. See also §§ 11, 12, and 13, providing for complaint, assessment, &c.

9. The minor children of parents chargeable,[9] or of parents unable in the opinion of overseers to maintain them, and such children chargeable themselves, may, without their consent, be bound by the overseers, by deed of indenture, as apprentices or as servants to any citizen of the State, to continue till the males are twenty-one, and the females eighteen years of age or are married, unless sooner discharged by the death of their master. Provision is to be made in such deed for the instruction of males to read, write, and cypher, and for females to read and write; and for such further instruction and benefit within or at the end of the term, as the overseers think reasonable.

Children may be bound; terms and time. Ibid. § 14.

10. The overseers are to inquire into the treatment of such children, and to protect and defend them in the enjoyments of their rights in reference to their masters and others. They may complain to the supreme judicial court in the county, where their town is, or where the master resides, against such master for abuse, ill-treatment or neglect, of a child bound to him. The court is to cause him to be notified, and upon a hearing of the parties or on default, may, for sufficient cause proved, discharge the child with costs, or dismiss the complaint, with or without costs at discretion. Any child so discharged, or whose master has deceased, may be bound anew for the remainder of the time.

Overseers to inquire, may complain of master. Court may discharge child, who may be bound again. Ibid. § 15.

11. The overseers, by a suit on the deed of indenture, may recover damages for breaches of its covenants. The amount so recovered, deducting reasonable charges, is to

Suits on bond. Damages for benefit of child. Ibid. § 16.

[9] Milo *v.* Harmony, 18 Maine, 415; Eastport *v.* Lubec, 64 Maine, 244; Leeds *v.* Freeport, 10 Maine, 356.

be placed in the treasury of the town, to be applied by the overseers to the benefit of the child during his term, or be paid to him at its expiration. The court on trial of such suit, for sufficient cause exhibited, may discharge the child. Such suit is not abated by the death of overseers or by the expiration of their term of office; but shall proceed in their names, or in the names of the survivors.

Child becoming of age may sue master for damages. Ibid. § 17.

12. Such child within two years after the expiration of his term, may commence an action of trespass, or case, or a suit on the deed, to recover damages for a breach of its covenants, or for injuries, other than such as have been tried in a suit between the overseers and master. He is for this purpose entitled to the custody of the deed of indenture when necessary, or to a copy of it, and he may sue upon it as assignee without an assigment of it.

Child who has departed may be arrested and returned. Those harboring or enticing liable. Ibid. § 18.

13. When a child so bound departs from service without leave, his master or a person in his behalf may complain on oath to a trial justice in the county, where he resides, or where the child is found, who is to issue a warrant and cause such child to be brought before him, and when the complaint is supported, he is to order the child to be returned to his master, though he resides in another county, or commit him to a jail or house of correction to remain not exceeding twenty days, unless sooner discharged by his master. A person, who entices such a child to leave his master, or harbors him knowing that he has so departed, is liable to the master for all his damages.

Child may be discharged on complaint of master. Ibid. § 19.

14. A master may complain to the court in the county, where he resides, or where the overseers making the indenture resided, for gross misbehavior of the child, and the court after notice to the child and to the overseers of the town binding, may discharge the child.

Persons of age may be bound for one year. Ibid. § 20.

15. Overseers may set to work, or by deed bind to service upon reasonable terms, for a time not exceeding one year, persons having settlements in their town or having none in the State, married or not married, able of body, upwards of twenty-one years of age, having no apparent means of support, and living idly; and all persons liable to be sent to the house of correction.

16. A person so bound may complain to the court, in the county where he or the overseers reside, and the court after notice to the overseers, and master, may upon a hearing, dismiss such complaint, or discharge him from the master and overseers, and award costs to either party or against the town at discretion.

Person bound may complain to court. Ibid. 21.

17. Overseers[10] are to relieve persons destitute, found in their towns and having no settlement therein, and in case of decease, decently bury them; the expenses whereof and of their removal incurred within three months before notice given to the town chargeable, may be recovered by the town incurring them against the town liable, in an action commenced within two years after the cause of action accrued, and not otherwise; and may be recovered of their kindred in the manner before provided in this chapter. Recovery in such action against a town estops it from disputing the settlement of the pauper with the town recovering.

Overseers to relieve persons having settlements in other towns. Ibid. §§ 24, 25.

18. Overseers[11] of a town, in which there is a county jail, may, by their written order, set to work so far as necessary for his support, any debtor committed, and then chargeable to any town in the State for his support. The town where he has a settlement, is liable to pay the expenses incurred not so paid by him; and the town incurring them may recover the same of the creditor, at whose suit he was committed at the rate fixed by law for his support.

Overseers where there is a jail, duties. Liability of creditor to pay. Ibid. § 26.

19. Overseers are to send a written notice[12] signed by one or more of them, stating the facts respecting a person chargeable in their town, to overeers of the town where his settlement is alleged to be, requesting them to remove him, which they may do by a written order directed to a person named therein, who is authorized to execute it. When paupers are sought to be removed

Notice to be given of relief to town liable. Ibid. § 27.

[10] Norridgewock *v.* Solon, 49 Maine, 385, 550; Holden *v.* Brewer, 38 Maine, 472; Newry *v.* Gilead, 60 Maine, 154; Kennedy *v.* Weston, 65 Maine, 596.

[11] Norridgewock *v.* Solon, *supra.*

[12] Kennebunkport *v.* Buxton, 26 Maine, 61; Cutter *v.* Maker, 41 Maine 594; Verona *v.* Penobscot, 56 Maine, 11; Fayette *v.* Livermore, 62 Maine, 229; Bowdoinham *v.* Phipsburg, 63 Maine, 497; East Machias *v.* Bradley, 67 Maine, 533; Veazie *v.* Howland, 53 Maine, 39.

to the town of their alleged settlement, under the provisions of section twenty-seven, chapter twenty-four of revised statues, and the person to whom the order of the overseers is directed requests them to go with him in obedience to said order, and they refuse so to do, or resist the service of such order, the person to whom it is directed may make complaint in writing, by him signed, of the facts aforesaid, to any judge of a police or municipal court or trial justice within the county where said paupers are then domiciled. Said judge or justice shall thereupon, by proper order or process, cause said paupers to be brought forthwith before him by any officer to whom the same is directed, to answer said complaint and show cause why they should not be so removed. The complaint may be amended at any time before judgment thereon, according to the facts. The complainant and the paupers shall be heard by such judge or justice and if upon such hearing the judge or justice aforesaid finds the town to which such paupers are sought to be removed is liable for their maintenance and support, of all or any of them, he shall issue his order, under his hand and seal, commanding the person to whom it is directed to take the bodies of said paupers and them transport to the town aforesaid, and them deliver to the custody of the overseer of the poor thereof. The person to whom said last named order is directed shall have all the power and authority to execute the same according to the precept thereof, that the sheriff or his deputy now has in executing warrants in criminal proceedings. The fees and costs shall be the same in the foregoing proceedings as are by law chargeable for like services in criminal cases, and shall be paid by the town seeking to remove such pauper or paupers.

Complaint where paupers refuse to go with person appointed to remove them. 1879, c. 157.

Complaint.

Proceedings. Ibid.

Fees and costs. Ibid.

20. Overseers[13] receiving such notice are, within two months, if the pauper is not removed, to return a written answer, signed by one or more of them, stating their objections to his removal; and if they fail to do so, the overseers requesting his removal may cause him to be

Answer to be returned within two months.

R. S., 1871, c. 24, § 28.

[13] Veazie *v.* Howland, *supra*; East Machias *v.* Bradly, *supra*.

removed to that town in the manner provided in the preceding section; and the overseers of the town to which he is sent are to receive him and provide for his support; and their town is estopped to deny his settlement therein, in an action brought to recover for the expenses incurred for his previous support and for his removal.

Notice by mail sufficient. Ibid. § 29.

21. When[14] a written notice or answer provided for in this chapter is sent by mail, postage paid, and it arrives at the post office where the overseers to whom it is directed reside, it is to be deemed a sufficient notice or answer.

Persons removed, returning may be sent to house of correction. Ibid. § 30.

22. A person removed, as provided in this chapter, to the place of his settlement, who voluntarily returns to the town from which he was removed, without the consent of the overseers, on conviction thereof before a justice of the peace, may be sent to the house of correction as a vagabond.

Foreign paupers may be removed. Ibid. § 31.

23. Overseers may make complaint, that a pauper chargeable to their town has no settlement in the State, to a justice of the peace, who may, if he thinks proper, by his warrant directed to a person named therein, cause such pauper to be conveyed, at the expense of such town, beyond the limits of this State, to the place where he belongs, but these provisions do not apply to families of volunteers enlisted in this State, who may have been mustered into the service of the United States.

Towns liable to individuals. Ibid, § 32.

24. Towns are to pay expenses necessarily incurred for the relief of paupers by an inhabitant not liable for their support, after notice and request to the overseers, until provision is made for them.

Overseers to complain of persons intemperate. Ibid. § 33.

25. When a person in their town, notoriously subject to habits of intemperance, is in need of relief, the overseers are to make complaint to a justice of the peace in the county, who is to issue a warrant and cause such person to be brought before him, and upon a hearing and proof of such habits, he is to order him to be committed to the house of correction, to be there supported by the town where he has a settlement, and if no such town, at the expense of the county, until discharged by the over-

[14] Augusta v. Vienna, 21 Maine, 298; Bangor v. Fairfield, 46 Maine, 558.

seers of the town in which the house of correction is situated, or by two justices of the peace and quorum.

Towns may recover of paupers.
Ibid. § 34.

26. A town, which has incurred expense for the support of a pauper, whether he has a settlement in that town or not, may recover it of him, his executors, or administrators, in an action of assumpsit.

Overseers take possession of property of paupers deceased.
Ibid. § 35.

27. Upon the decease of a pauper then chargeable, the overseers may take into their custody all his personal property, and if no administration on his estate is taken within thirty days, may sell so much thereof, as is necessary to repay the expenses incurred. They have the same remedy to recover any property of such pauper, not delivered to them, as his adminstrator would have.

May prosecute and defend.
Ibid. § 36.

28. For all purposes provided for in this chapter, its overseers, or any person appointed by them in writing, may prosecute and defend a town.

Penalty for bringing paupers into a town.
Ibid. § 38.

29. Whoever[15] brings into and leaves in a town where he has no settlement, a poor person, knowing him to be so, with intent to charge such town with his support, forfeits a sum not exceeding one hundred dollars, to be recovered, to the use of such town, in an action of debt.

Common carriers' liability for bringing non-resident paupers into the state.

30. Any common carrier that brings into this state any person not having a settlement in the state, shall cause the removal beyond the lines of the state, of any such person, if he falls into distress within a year, which removal said common carriers are hereby authorized to make; provided such person shall be delivered on board a boat or at a depot of such common carrier, by the overseers or municipal officers requesting such removal; and in default thereof, such common carrier shall be liable in an action of assumpsit for the expense of the support of such person after such default.

Proviso.
1875, c. 41.

Soldiers not to be considered paupers.
1875, c. 21.

31. No soldier who has served by enlistment in the army, or navy of the United States, in the war of eighteen hundred and sixty one, and in consequence of injury sustained in said service, may become dependent upon any city or town in this state, shall be considered a pauper, or subject to disfranchisement for that cause.

[15] Sanford v. Emery, 2 Maine, 5; Parsonsfield v. Perkins, 2 Maine, 411; Houlton v. Martin, 50 Maine, 336; 21 Pick., 83; 110 Mass., 210; 16 Mass., 393.

Pawnbrokers.

Statutes.

1. License and removal of pawnbrokers, and penalty for acting without license.
2. To keep an accurate and particular account of all business done, under a penalty.
3. Rate of interest fixed at twenty-five per cent, on loan of twenty-five dollars, and six on larger.
4. Time and mode of selling pawned property, and notice thereof, fixed under a penalty.
5. Penalty for not paying over proceeds of sale, after deducting amount due on loan.

License and removal of pawnbrokers, &c. R. S., 1871, c. 35, § 1.

1. The municipal officers of any town may grant licenses to persons of good moral character, to be pawnbrokers therein for one year, unless sooner removed by said officers for a violation of law regulating their business; and any person carrying on said business without a license, shall be liable to a penalty not exceeding one hundred dollars.

To keep an account of all business done, under a penalty. Ibid. § 2.

2. Every pawnbroker shall keep a book, in which he shall enter the date, duration, amount and rate of interest, of every loan made by him; an accurate account and description of the property pawned, and the name and residence of the pawner, and, at the same time, deliver to said pawner a written memorandum signed by him, containing the substance of the above entry, and at all reasonable times, submit said book to the inspection of any of the officers aforesaid; and for every violation of this section he shall forfeit twenty dollars.

Rates of interest fixed. Ibid. § 3.

3. No pawnbroker shall directly or indirectly receive any rate of interest greater than twenty-five per cent a year on a loan not exceeding twenty-five dollars, nor than six per cent on a larger loan made upon property pawned, under a penalty of one hundred dollars for each offence.

Time and mode of selling pawned property, and notice thereof, fixed under a penalty. Ibid. § 4.

4. No pawnbroker shall sell any property pawned, until it has remained in his possession three months after the expiration of the time for which it was pawned; and all such sales shall be at public auction by a licensed auctioneer, and after notice of the time and place of sale, the name of the auctioneer, and a description of the property to be sold are published in a newspaper in the town, where the property is pawned, if any, and if not, posted in two public places therein at least two weeks before the sale; and all sales of such property otherwise made, shall be wholly void, and the pawnbroker, undertaking to make the same, shall forfeit twenty dollars for every such offence.

Penalty for not paying over proceeds of sale, &c. Ibid. § 5.

5. After deducting from the proceeds of any sale as aforesaid the amount of the loans the interest then due, and the proportional part of the expenses of sale, such pawnbroker shall pay the balance to the person entitled to redeem such property if no sale had been made; and if not so paid on demand, he shall forfeit double the amount so retained, one-half to the use of the pawner, and the other to the use of the State.

Permits.

Ordinance.

Fee for permits.

Whenever a permit shall be granted to any person, under the authority of any order or ordinance, the applicant shall pay to the officer granting the same the sum of twenty-five cents, except in cases otherwise specially provided for.

Fee for permits
Rev. Ord. 1868.

Petroleum, Inspection of.

Statutes.

1. Inspectors appointed. Their duties.
2. Casks, how to be marked. False marks, how punished.
3. Casks must be inspected. Penalty for neglect.
4. Duty of Municipal officers and police.

Ordinance.

Fees of inspectors.

Statutes.

1. In towns containing two thousand inhabitants or more, the municipal officers shall, on or before the first day of May annually appoint one or more persons, and fix their compensation, to be inspectors of petroleum, coal oil, and burning fluids who shall be duly sworn, and shall when requested inspect such oils and burning fluids by applying the fire test with G. Tagliabue's pyrometer or some other accurate instrument, to ascertain the igniting or explosive point thereof in degrees of Fahrenheit's thermometer, and they shall cause every vessel or cask thereof by them so inspected to be plainly marked by the name of such inspector, the date of inspection, and the igniting or explosive point of the contents thereof.

Inspectors of petroleum to be appointed in towns of 2000 inhabitants or more. R. S. 1871, c. 39, § 29.

2. Whenever any cask or vessel of such oil or fluid will not bear the fire test of at least one hundred and twenty degrees Fahrenheit, without ignition or explosion, the same shall be marked as aforesaid, and shall also be marked—*unsafe for illuminating purposes*. And if any inspector knowingly put false marks upon such casks or vessels inspected by him, he shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment for the term of six months in the county jail.

Casks, how to be marked.

False marks, how punished. Ibid. § 30.

3. Every person and corporation engaged in manufacturing petroleum or coal oil or burning fluid, shall cause every cask or other vessel thereof to be so inspected and

Casks must be inspected in this State.

marked by a sworn inspector. And if any person manufactures or sells such oil or burning fluid, not so inspected and marked in this state, or that has not been so inspected and marked as unsafe for illuminating purposes, he shall pay a fine not exceeding five hundred dollars, or be imprisoned six months in the county jail, upon indictment therefor.

Penalty for neglect. Ibid. § 31.

4. The municipal officers of towns, and the police of cities, shall have the right at all times to examine all such oils and fluids kept in their towns, for sale, and to cause the same to be inspected and tested; and they shall do so in all cases where they are informed or believe the same are kept for sale in violation of law; and when they find any persons so keeping or selling them they shall cause them to be prosecuted therefor.

Duty of municipal officers and police. Ibid. § 32. See R. S., 1871, c. 26, § 24, which gives towns the right to make regulations about petroleum and other explosives.

Ordinance.

The compensation allowed to inspectors of petroleum, coal oil, and burning fluid, shall be as follows:

Fees of Inspectors. Ord. June 10, 1869.

For fifteen barrels and under, at the rate of twenty cents per barrel; for over fifteen and under thirty barrels, fifteen cents per barrel; for over thirty and under fifty barrels, ten cents per barrel; for over fifty barrels, five cents per barrel.

Pilots.[1]

Statutes.

1. Appointment of pilots.
2. Board of Trade of Portland to appoint pilots of said city.
3. Their duty. Master may pilot his own vessel.
4. Fees, &c.
5. Liabilities of pilots.

Appointment, oath and bond of pilots. R. S. 1871, c. 36, § 1.

1 The governor, with advice of council, may appoint pilots for any port, in which a majority of the ship owners and masters apply in writing therefor and recommend suitable persons, and give to each of them branches or warrants for the execution of the duties of their office; and they shall, before entering upon the same, be duly sworn, and give bond to the treasurer of State in the sum of five thousand dollars for the faithful performance thereof.

Board of Trade of Portland to appoint pilots for said city. Act, 1854, c. 232, § 2.

2. By the provisions of "an act to incorporate the Board of Trade of Portland," approved March twenty-second, eighteen hundred and fifty-four, power was given to said board to appoint such number of pilots for the harbor of Portland, as they may deem necessary for the safety and convenience of the commerce of said port; and also to fix such compensation for the services to said pilots as said board may deem just and reasonable.

Their duty.

3. Such pilots are authorized and directed to take charge of all vessels, drawing nine feet of water and upwards, bound into, and of all such vessels, except coasting and fishing vessels bound to sea out of any of said ports, and shall pilot them into or out of the port assigned them, first showing to the master thereof their branch and informing him of their fees; but any master may pilot his own vessel without being subject to pay therefor.

Master may pilot his own vessel. R. S. 1871, c. 36, § 2.

[1] As to duties of pilots from infected places to anchor outside of the port. See R. S., 1871, c. 14, §§ 18 and 21.

4. The governor and council may fix the fees of pilotage; specify the same in the warrent of each pilot; transmit to each collector of customs in said ports a schedule thereof, to be hung up by him for public inspection; hear and determine all complaints against such pilots for misconduct, and suspend or remove them and appoint others in their room. Governor and council to fix fees, hear complaints, and suspend or remove. Ibid. § 3.

5. If any vessel, while under the charge of such pilot, is lost, run aground, or cast away, through his fault, he shall be liable to pay the owner or insurer a just compensation for any damage thereby sustained. Liable for damage caused by their fault. Ibid. § 4.

Police.[1]

Statutes.

1. Administration of police of city vested in mayor and aldermen.
2. Cities authorized to establish police regulations.
3. Police officers authorized to act as constables in certain cases.
4. Criminals and fugitives from justice may be arrested without a warrant
5. Aid may be required by officer. Penalty for refusing.
6. Policemen, how appointed.

Ordinances.

1. City marshal to be appointed. To give bonds. To be sworn.
2. Duties of city marshal. To carry into effect laws and ordinances.
3. Duty to prosecute offenders. To lay before mayor and aldermen a statement of prosecutions, &c. To render to mayor and aldermen, annually, an account of moneys received. To pay over once in three months. To comply with rules and regulations.
4. Deputy marshals to be appointed. To act as captains of city watch. Compensation.
5. Duties of deputy marshals. To assist the marshal. To obey and execute orders of mayor and marshal. To serve warrants and subpœnas. To obey rules, &c.
6. Deputy marshals invested with power, &c., of captains of the watch. To assign to night police limits. To receive reports. In case of sickness or absence the mayor to appoint a deputy marshal.
7. Policemen, how appointed. Compensation. Duties. To arrest and commit to watch house, offenders. To obey rules, &c. To obey orders of mayor or marshals.

[1] The relation of master and servant does not exist between a city and its police officers. A city is not liable for their negligent acts. Mitchell *v.* Rockland, 52 Maine, 118. See Morgan *v.* Hallowell, 57 Maine, 375; 1 Allen, 172. As to temporary appointment by selectmen of towns, and that there is no necessity of their being sworn, see 4 Gray, 34; 99 Mass., 592; 12 Metcalf, 233.

8. Watchmen may be appointed. Their duties. To be subject to rules, &c.
9. Policemen and watchmen subject to be called upon for extra services. Compensation.
10. Penalty for resisting police in discharge of duties.
11. Police uniform.

Statutes.

1. By section five of the charter of the city of Portland, the executive powers of said city generally, and the administration of police and health departments, with all the powers of selectmen, except as modified by the charter, are vested in the mayor and aldermen. All the powers of establishing watch and ward, vested by the laws of the State in the justices of the peace and municipal officers or inhabitants of towns, are vested in the mayor and aldermen, so far as relates to said city; and they are authorized to unite the watch and police departments into one department and establish suitable regulations for the government of the same. The officers of police shall be one chief, to be styled the city marshal, so many deputy marshals as the city council may by ordinance prescribe, and so many watchmen and policemen as the mayor and aldermen may from time to time, appoint.

Powers of mayor and aldermen over police.

Police, how constituted.

City charter, 1863, § 5.

See § 6, *post*.

2. Cities may establish such police regulations as they may deem necessary for the prevention of crime, the protection of property, and the preservation of good order, not inconsistent with the laws of the State.

Cities may establish police regulations. R. S. 1871, c. 3, § 40.

3. Police officers, duly appointed in any city, shall have all the powers of constables in all criminal matters, or relating to the by-laws of their city.

Police officers of cities have power of constables in certain matters. R. S. 1871, c. 80, § 46.

4. The city marshal of Portland, or other persons legally qualified to execute criminal process within said city, shall have power without warrant, to arrest and detain any person found in said city, upon information that such person has committed a crime in another State or country, or in any city or town within this State, and is a fugitive from justice or is about to escape, and the person so arrested may be detained by such officers for a reasonable time, until such person can be delivered into

Criminals and fugitives from justice may be arrested without a warrant. Act, 1853, c. 167, § 2.

proper or legal custody on a warrant or otherwise, according to the nature of the case.

Aid may be required by officer.

5. Any officer aforesaid,[1] in the execution of the duties of his office in criminal cases, for the preservation of the peace, for apprehending or securing any person for the breach thereof, or in case of the escape or rescue of persons arrested on civil process, may require suitable aid therein; and any person, so required to aid, who neglects or refuses so to do, shall forfeit to the use of the county not less than three, nor more than fifty dollars; and if he does not forthwith pay such fine, the court may punish him by imprisonment not exceeding thirty days.

Penalty for refusing.

R. S. 1871, c. 80, § 48.

Police to be appointed by Mayor with advice and consent of aldermen.

Private laws, 1878, c. 16. Amending 1877, c. 346.

6. The city marshal, deputy marshals and policemen, of the city of Portland, shall hereafter be appointed by the mayor, by and with the advice and consent of the aldermen, and shall hold office during good behavior, subject, however, after a hearing, to removal at any time by the mayor, by and with the advice and consent of the aldermen, for inefficiency or other cause. The mayor may, for cause, suspend any policeman from duty, and such suspension shall continue in force till the next meeting of the aldermen.

Ordinances.

CITY MARSHAL.

City marshal to be appointed.

1. The mayor, by and with the advice and consent of the aldermen, shall in the month of March, annual, appoint a city marshal, who shall hold his office until another be appointed and qualified in his stead.

To give bonds. To be sworn. Rev. Ord. 1855, as amended by city charter. Rev. Ord., 1868.

And the city marshal, before entering upon the duties of his office, shall give bonds, with sureties to be approved by the mayor and aldermen, in such sums as they may prescribe, and shall be sworn to the faithful performance of the duties of his office.

Duties of city marshal.

2. It shall be the duty of the city marshal, from time to time, to pass through every street, alley,

[1] A city is not liable for personal injury sustained by one while aiding police officer. Cobb *v.* Portland, 55 Maine, 381.

court, square, and public place of the city, to observe nuisances, obstructions, or impediments therein, to the end that the same may be removed, according to law; to notice all offenses against the laws; to be vigilant and active in detecting any violation or breach of any law or city ordinance, taking the names of the offenders, to the end that they may be prosecuted; to receive all complaints made for any breach of the laws, and for that purpose shall attend daily at his office, and at stated times. It shall be his duty to enforce and carry into effect, to the utmost of his power, all and each of the city ordinances according to the true intent and meaning of the same, and to obey and execute all the commands and orders of the mayor and aldermen.

To carry into effect laws and ordinances Rev. Ord. 1868.

3. It shall be the duty of the city marshal to prosecute all offenders against the laws of the State and ordinances of the city, within one week after detecting or ascertaining the offence or offences by them respectively committed; to attend regularly and punctually at all trials of offenders prosecuted in behalf of the city, and to use all lawful means for their effectual prosecution and final conviction; to lay before the mayor and aldermen a correct statement of all prosecutions by him instituted before the municipal court, within one week after their final determination. And it shall be his duty annually, to render to the mayor and aldermen an account of the names of all persons from whom he may have collected fines, and for what offence, and the sums so collected from each, during his term of office; and as often as once in three months, he shall pay over to the city treasurer all monies which he may have received belonging to the city; and he shall further perform all such other additional duties, and comply with all such regulations as may at any time be prescribed to him by the mayor and aldermen.

Duty to prosecute offenders.

To lay before mayor and aldermen a statement of prosecutions, &c.

To render to mayor and aldermen annually, an account of monies received.

To pay over once in three months.

To comply with rules and regulations. Ibid.

DEPUTY MARSHALS.

Deputy marshals to be appointed.
To act as captains of city watch.
Compensation. Ibid. as amended by city charter.

4. The mayor, by and with the advice and consent of the aldermen, shall in the month of March, annually, appoint two deputy marshals, who shall discharge all the duties of captains of the city watch, and they shall devote all their time to the discharge of the duties of their office, and they shall be entitled to receive for their services such compensation as shall be determined by the city council.

Duties of deputy marshals

To obey and execute orders of mayor and marshal.
To serve warrants and subpœnas.
To obey rules, &c.
Ibid.

5. It shall be the duty of said deputy marshals to act through the week, Sundays included, as the day police, to assist the marshal in the discharge of his official duties, to obey and execute all orders of the mayor and the city marshal, to officiate for the city marshal in his absence, to serve all warrants and subpœnas in criminal matters which they may receive from the city marshal or municipal court, to endeavor to prevent all disturbances and violations of law, and to arrest and detain for further proceedings every person found by them violating any of the laws of the State, or ordinances of the city, and they shall obey all rules and regulations of the mayor and aldermen.

Deputy marshals invested with power, &c., of captains of watch.
To assign to night police limits.
To receive reports.

6. Said deputy marshals are hereby invested with all the powers and authority of captains of the watch, and they shall, every other night, by turns, discharge the duties of that office, and act throughout the night as captain of the watch. The captain of the watch shall each night assign to the night police their respective limits, and be present at the office, at the hour appointed by the mayor and aldermen for their discharge, to receive their reports and discharge them from further duty, unless in his opinion, it shall be expedient to continue the whole, or any number of them, on duty through the night, which at any time he is authorized to do; he shall also each night, unless his attendance is required at the watch house, ascertain by his personal investigation when practicable,

whether the policemen and watchmen are faithful in the performance of their duties, and report the next morning to the mayor the officer who shall be found unfaithful. In case of sickness or inability of either of the deputy marshals to perform the duties incumbent on him, the mayor shall have authority to appoint another deputy marshal in his stead, so long as his services may be required.

In case of sickness or absence, the mayor to appoint a deputy marshal. Ibid.

7. The mayor, by and with the advice and consent of the aldermen, shall also appoint, from time to time, such numbers of persons as they shall deem expedient, to constitute a police of the city, who shall be placed on duty at such hours and serve for such time as the mayor and aldermen shall determine; and they shall be entitled to such compensation for their services as the city council shall determine. It shall be incumbent on the police, during the hours they shall be on duty, to patrol constantly throughout their respective limits, to endeavor to prevent all violations of law, and arrest and commit to the watch house all persons found by them violating any of the laws of this State, or ordinances of the city; they shall obey all rules and regulations established by the mayor and aldermen, and the orders of the mayor, marshal, or deputy marshals, and shall be subject to removal by the mayor, whenever in his opinion it shall be deemed expedient.

Policemen, how appointed.

Compensation.

Duties.

To arrest and commit to watch house, offenders.

To obey rules, &c.

To obey orders of mayor, &c.

Ibid. as amended by city charter.

8. The mayor, by and with the advice and consent of the aldermen may, from time to time, appoint such number of watchmen as they may deem expedient, who shall be sworn and shall perform such duties and be subject to such rules and regulations as are or may be established by the mayor and aldermen.

Watchmen may be appointed. Their duties. To be subject to rules, &c. Rev. Ord. 1855, as amended by city charter.

9. Said policemen and watchmen shall at all times, either by day or by night, be subject to be called upon by the mayor or city marshal, to assist in quelling any

Policemen and watchmen subject to be called upon for extra services.

riot or disturbance, or arresting any offenders, or to perform any other duties of policemen that may be required of them, for all which extra services they shall be paid such compensation as the city council shall determine[1].

Compensation. Ibid.

Penalty for resisting police in discharge of duties. Ibid.

10. If any person shall resist the police in the discharge of their duty, or any member thereof, he shall pay a fine of not less than ten nor more than fifty dollars for each and every offence; and if any person shall neglect or refuse to aid and assist the police, or any member thereof, when called upon so to do, he shall forfeit and pay not less than five nor more than twenty dollars.

POLICE UNIFORM.

Uniform of police; order of mayor and aldermen. April 20, 1860. Rev. Ord. 1868.

11. *Ordered*, That the dress of the officers and members of the Portland Police Department, when on duty, shall be in conformity to the schedule described as follows:

City marshal to wear blue dress coat with police buttons, black pantaloons, merino vest, black hat with gold star in a rosette on the same.

Deputy marshals to wear blue frock coat with police buttons, dark blue pantaloons, blue cloth cap with glazed covering. This dress to be dispensed with on detective duty.

Police to wear dark blue frock coat, dark blue pants, black silk or satin vest. In spring and fall, black cloth vest. In winter, single breasted, made to button up to the top, except a loop across the top under the chin; black silk or satin neck stock. The buttons on the frock coat to be worn in the usual manner, and the usual number, and to be fastened with a ring through the eye, so that the same can be removed and their places supplied by buttons of a different pattern, when the officer is permitted to lay

[1] 9 Gray, 78.

aside his uniform, or when he leaves the department; blue cloth cap of uniform style and shape, made with glazed covers.

Marshal, deputy marshals and policemen shall wear dark blue overcoats, cut in uniform style, single or double breasted as the marshal shall decide, and of the same shade of color, and supplied with the police buttons, to be worn in the same manner as the buttons to be worn on the frock coat, at such seasons of the year as the marshal may direct.

On public occasions, so much of the police uniform shall be worn as the marshal may direct or determine.

Nothing in the adoption of the uniform dress, shall prevent the city marshal from ordering such dress for officers detailed for special duty, as he may think proper.

Public Buildings.

1. Committee on public buildings to be appointed.
2. To have care and custody of public buildings, except, &c., Proviso.
3. To lease buildings belonging to city, subject, &c.
4. Committee to prepare plans, &c., of buildings to be erected, repaired, &c.
5. To publish notice of time and place for exhibition of same.
6. Proposals for work to be sealed. How opened. Not to be disclosed till contract is made. Proviso.
7. Contracts exceeding $500 to be in writing, and signed by the mayor. Not to be altered, unless, &c.
8. Expenditure not to exceed appropriations.
9. Purchasers of land for erecting buildings, to be made under direction of committee.
10. No building or land appurtenant to be sold without an order from city council.
11. Repairs, &c., to be done under committee on public buildings.
12. Lease of city building and contract Feb'y 1, 1858.

Committee on public buildings to be appointed. Rev. Ord. 1868.

1. There shall be appointed, annually, a joint committee of the city council, to be called the committee on public buildings, to consist of two members of the board of mayor and aldermen, and three members of the common council.

To have care and custody of public buildings, except, &c.

Ibid.

2. The said committee shall have the care and custody of all buildings belonging to the city, and of the erection, alteration and repair thereof, except as is otherwise provided in this and other ordinances of the city, and subject to such rules, orders and regulations as the city council may from time to time adopt:

Proviso.

Provided, that the school committee shall have the care and custody of the school houses belonging to the city.

3. The said committee are authorized to lease any building belonging to the city, which is not otherwise appropriated, for any period not exceeding three years, and upon such terms and conditions as they may deem expedient, subject, however, to the approval of the mayor and aldermen; and in such case the lease shall be signed and executed by the city treasurer.

To lease buildings belonging to the city, subject, &c.

Ibid.

4. Whenever any building for the use of the city shall be erected, altered, or repaired, the expense of which may exceed the sum of five hundred dollars, it shall be the duty of the committee that may have charge of the same, to prepare or cause to be prepared the requisite plans and specifications of the work to be done.

Committee to prepare plans, &c. of buildings to be erected, repaired, &c.

Ibid.

5. The said committee shall give notice in the newspapers in which the ordinances of the city are published, of the time and place of the exhibition of such plans and specifications as may be necessary to enable contractors to make their estimate of the proposed work.

To publish notice of time and place for exhibition of same.

Ibid.

6. No proposal shall be received by the said committee, from any person offering to contract for such work, unless the same is sealed, and no proposal shall be opened except in committee actually assembled, and the contents of no proposal shall be made known to any person not a member of the committee, until after a contract shall have been made, provided, always, that if any such proposals shall be offered by persons who, in the judgment of said committee, shall be incompetent to perform their contracts in a workmanlike manner, or irresponsible in respect to their means of faithfully executing the same, the said committee may in their discretion reject any such proposal, notwithstanding the same be at a lower rate than other proposals offered for the same work.

Proposals for work to be sealed.

How opened.

Not to be disclosed till contract is made.

Proviso.

Ibid.

Contract exceeding $500 to be in writing, and signed by mayor.

7. In all cases where the amount of any contract shall exceed the sum of five hundred dollars, the contract shall be in writing, and signed by the mayor on the part of the city, and after being signed by the parties, no such contract shall be altered in any particular, unless a majority of the said committee shall signify their assent thereto, in writing, under their respective signatures, indorsed on the said contract.

Not to be altered, unless, &c. Ibid.

Expenditures not to exceed appropriations. Ibid.

8. The amount of expenditures for the foregoing purposes, in any one year, shall never exceed the appropriations made by the city council for the same, and no expenditure exceeding two hundred dollars shall ever be made in the alteration or repair of any building, without an express vote of the city council authorizing the same.

Purchases of land for erecting buildings, to be made under direction of committee. Ibid.

9. Whenever the city council shall order the purchase of land, for the purpose of erecting any building thereon, such purchase shall be made under the direction of the said committee on public buildings.

No building, &c. to be sold without order of city council. Ibid.

10. No building, or land appurtenant thereto, shall be sold by any committee of the city council without an order from the city council authorizing such sale.

Repairs, &c. to be done under committee on public buildings. Ord. Feb. 9, 1865.

11. All repairs, alterations or enlargements of any of the public buildings belonging to the city, necessary or requiring to be made, shall be done under the direction of the joint standing committee on public buildings, and no bill shall be allowed or paid by the city for any labor or materials used in repairs upon any building belonging to the city, unless the same shall have been approved by said committee.[1]

12. *Lease from Cumberland county to city of Portland of City Building for nine hundred ninety-nine years, from February 1st, 1858.*

Whereas, the city of Portland, in the State of Maine, and the county of Cumberland, in said State,

[1] See title "CONTRACTS AND EXPENDITURES."

by the court of county commissioners, have negotiated respecting the leasing to said city, of the lot of land belonging to said county, situated on the northerly side of Congress street in said Portland, bounded by Myrtle street on the east, and the land of Nicholas Emery and others on the west, and by land of N. D. Appleton and others, on the north, together with the buildings now thereon. And the said county has agreed to grant, and the said city to accept, a lease of said lot and buildings, upon the terms, agreements, covenants and conditions, hereinafter in this instrument set forth. And whereas, the Committee on Public Buildings, appointed by the city council of said city, were by said order of said council, passed January 29th, 1858, duly authorized to close a contract with said county for a perpetual lease of the lot of land aforesaid, for the purpose of erecting thereon buildings for the use of said city. And whereas, said city has procured an architectural plan of such a building and improvements, as they wish and propose to erect and put upon said lot, subject however to such changes as may be finally proposed and agreed upon by and between said parties.

Now this indenture, made this thirty-first day of March in the year eighteen hundred and fifty-eight, between the county of Cumberland aforesaid, on the one part and the city of Portland aforesaid, on the other part, Witnesseth: That, in consideration of the premises, and of the terms, covenants and conditions, hereinafter contained, to be paid, done and performed by said city; the said county of Cumberland doth hereby demise and lease to the city of Portland aforesaid, the lot of land above described belonging to said county, situated on the northerly side of

Congress street in said Portland from Myrtle street westerly to Nicholas Emery's land, being one hundred and fifty-six feet more or less, on Congress street, and, extending northerly about two hundred and sixty-five feet to land of Appleton and others, together with all the buildings thereon, belonging to said county. To have and to hold the same, with all and singular, the estate, rights, privileges and appurtenances thereto belonging to the said city, for and during the full term of nine hundred and ninety-nine years from the first day of February in the year of our Lord eighteen hundred and fifty-eight, reserving thereupon, a yearly rent of one dollar a year, payable to said county on demand by them, at the end of each year and not otherwise. This lease is made and adopted upon the following further terms, covenants and agreements, that is to say:

First. The said lessees are hereby authorized to remove any and all buildings now on the premises, and use the materials thereof, provided however, that the gaol, the keeper's house and appurtenant buildings now used for the accommodation of the gaol and keepers, are to remain unaltered until the new gaol and the keeper's apartments therein are ready for occupation, and the prisoners and the keeper shall have removed thereto.

Second. That said city shall furnish apartments and accommodations for the business of the county, either by altering and remodeling the present Court House, or by erecting a new one; that is to say, said city in said new or altered buildings, shall provide and furnish to the approval of the county commissioners, a court room for the Supreme Court, a Grand Jury room, two rooms for the Traverse Juries, a fire

proof library room and adjoining lobby and entrance to lobby, two rooms for the Clerk of the Courts, a room for the County Commissioners' Court, fire proof rooms for the records of the Clerk of the Courts, for the Register of Deeds and for those of the Probate Court, a Court room for the Probate Court, and another with lobbies for the Municipal Court, a fire proof apartment or safe for the County Treasurer; and offices for the County Treasurer, County Attorney and Sheriff, with such additional room as may be necessary and all according to the standard in similar buildings of modern construction.

Third. Said city shall, during the continuance of this lease, keep said buildings and the various rooms and apartments above described in good repair, and continue to furnish such conveniencies and accommodations from time to time, as may be necessary and proper, for the use of said county, free of any charge or expense to said county.

Fourth. Said city shall not erect any other buildings upon said lot, but such as are indicated in the plan to be finally agreed upon and adopted, except to enlarge their accommodations for public use, by additions to said building described on said plan, without the written assent of the County Commissioners for the time being, or of the persons who may then be acting as the agents or representatives of said county.

Fifth. The said lessees are hereby authorized to sell or otherwise dispose of, alter, amend and repair, or take down and remove, any of the buildings on said lot, subject to the reservation in the fourth article and to use the materials thereof in such new buildings as they may erect, but if they take down the present Court House, or in altering the same, shall disturb or prevent the proper occupation of that building by the courts and officers now using it, they shall furnish free of expense to the county such

accommodation as may be suitable and necessary for the use of the county.

Sixth. The said lessees hereby covenant, that they will well and truly perform and keep, all and singular, the covenants and agreements in this lease contained; and if at any time hereafter, during the continuance of this lease, said lessees shall neglect to repair said court house on due notice and request by the commissioners or agents of said county, or shall fail to furnish such accommodations and conveniencies as this instrument prescribes and requires; said city shall forfeit to the said county, the sum of fifty thousand dollars, and such further sum as the said county may be subjected to in making the necessary repairs, or furnishing the accommodations and conveniences deemed necessary and proper.

Seventh. And should, at any time hereafter, any question arise, as to the proper construction of this instrument, or of the terms, covenants and conditions thereof, such disagreement shall be referred to, and determined by three impartial, intelligent and disinterested men, one of whom shall be a judge of the Supreme Judicial Court of Massachusetts; and in case the parties cannot agree upon the other two, they shall be appointed by the person above designated, and the final award and determination of these arbitrators, to be made in writing to the parties, shall be final and conclusive upon them.

In testimony whereof, the said county of Cumberland by the county commissioners thereof, on the one part, and the Committee on Public Buildings of the city of Portland, each being duly authorized and qualified therefor, have set their names respectively, and caused the corporate seals of said county and city to be affixed hereunto in duplicate.[2]

[2] This contract and lease is on file in the treasurer's office.

Public Parks and Squares.[1]

Statutes.

1. When muncipal officers may take land for public parks.
2. Duty of municipal officers.
3. Appeal.

Ordinance.

1. Removing gravel, &c.

Statutes.

1. Any town or city, containing more than one thousand inhabitants, upon petition in writing signed by at least thirty of the citizens thereof, who are tax payers, directed to the municipal officers, describing the land to be taken as herein provided, and the names of the owners thereof, so far as they are known, at a legal meeting of such town, or of the mayor, aldermen and city council of such city, may direct the municipal officers of such town or city to take suitable lands for public parks or squares; and thereupon such municipal officers shall have power and authority to take such lands for such purpose, but such land shall not be taken without the consent of the owner, if at the time of filing such petition with such municipal officers, or in the office of the clerk of such town or city, such land is occupied by a dwelling-house wherein the owner thereof or his family reside.

When municipal officers may take land for public parks. 1881, c. 76, § 1.

2. Whenever the municipal officers of such town or city shall be directed to take land as provided by section one of this act, they shall, within ten days thereafter, give written notice of their intention to take such land, describing the land to be taken, and the time and place of hearing,

Duty of municipal officers. Ibid. § 2.

[1] For establishment of Lincoln Park in 1861 and '67, see City Records, vol. 14, pp. 292, 297, 304, 323, 333, 367, 412, 415, 424, 446. Lincoln Park contains about two and one-half acres.

For the records in the matter of "Deering's Oaks," a park of about fifty acres, see order of city council of Sept. 27, 1879, vol. 20, p. 82; and records and plans in city engineer's office.

by posting the same in two public places in the town where the land lies, and in the vicinity of such land, and by publishing the same in some newspaper printed in such town or city, seven days before the day of such hearing, and if no newspaper is printed in such town or city such notice shall be given in some newspaper printed in the county where the land lies, three weeks successively, the last publication to be seven days before such hearing. The municipal officers shall meet at the time and place specified in the notice, view the land to be taken, hear all parties interested, and if they decide that the land is suitable for the purpose for which it is to be taken, they shall take the same and estimate the damages to be paid to each person owning the same, or interested therein, so far as they are known to said municipal officers, and shall make return of their doings in writing, signed by them or a majority of them, which return shall describe by metes and bounds the lands so taken, and shall state the purpose for which it is taken, the names of the owners, so far as they are known, and the amount of damages awarded to each, which return shall be filed and recorded in the clerk's office of such town or city, and a copy thereof, certified by such clerk, shall be recorded in the registry of deeds for said county.

Appeal, § 3.

3. Any person aggrieved by the estimate of damages may appeal therefrom by filing, within thirty days, in the office of the county commissioners for the county where the land is taken, a petition in writing, signed by the party aggrieved, his agent or attorney, describing the land taken, the interest of the petitioner therein, the amount of damages awarded therefor, and claiming an appeal to the county commissioners from the estimate of the municipal officers. A certified copy of such petition shall be served upon such municipal officers, by leaving the same in the clerk's office of such town or city, at least fourteen days before the hearing thereon; and the subsequent proceedings relating to the hearing upon such petition and damages shall be the same as now provided respecting highways. When such damages shall be finally

determined, they shall be certified to the clerk of such city or town, and paid by the treasurer thereof.

Ordinance.

No person shall remove any gravel, soil or material from any portion of the western promenade, the cemeteries, or any other public grounds within the city, without the consent of the mayor expressly given therefor. Any person violating this ordinance, shall be subject to a penalty of fifty dollars.

Removing gravel, &c. Ord. 1869, Aug. 30.

Railroads.[1]

Statutes.

1. Atlantic and St. Lawrence Railroad Co., City of Portland to aid in construction. Act of 1848. 20 sections.
2. Atlantic and St. Lawrence Railroad Co., City of Portland to aid in construction. Act of 1850. 25 sections.
3. Atlantic and St. Lawrence Railroad Co., City of Portland to aid in construction. Act of 1852. 7 sections.
4. Atlantic and St. Lawrence Railroad Co., City of Portland to aid in construction. Act of 1853. 7 sections.
5. Atlantic and St. Lawrence Railroad Co., City of Portland to aid in construction; respecting loans of credit. Act of 1868. 8 sections.
6. Portland and Ogdensburg Railroad, City to aid. 18 sections.
7. Portland and Forest Avenue Railroad, charter. 15 sections.
8. Portland and Forest Avenue Railroad, amendment. 5 sections.

GENERAL RAILROAD ENACTMENTS.

9. City has power to sell its interest in any railroad.
10. Any stockholder may call for a stock vote.
11. Towns may aid in constructing railroad, extent of aid.
12. Towns may erect gates at railway crossings.
13. Taxation of railroads, buildings, &c. Act of 1881.
14. Excise tax to State treasurer.
15. Tax, how ascertained.
16. Governor and council to determine amount.
17. When payable.
18. Proceedings for abatement.
19. Duty of railroad commissioners.
20. Inconsistent acts repealed.
21. Railroad Company may construct side tracks to a mill, &c.
22. Crossing of a railroad or canal by a railroad.
23. Paupers brought into State by a railroad.
24. When a city or town is entitled to a director.
25. City of Portland authorized to sell its interest in certain railroads.

ORDERS AND ORDINANCES.

1. Portland and Forest Avenue Railroad,—street railway, location. Order.

[1] For General Railroad Laws, see R. S., 1871, c. 51.
The interest of the city in the Portland and Rochester Railroad having been sold in 1879, all legislation on that subject is omitted from this book.

2. Portland and Forest Avenue Railroad Route, turn outs. Order.
3. Portland and Forest Avenue Railroad, tracks, grades and curves. Order.
4. Portland and Forest Avenue Railroad, construction of tracks, rules, &c. Order.
5. Portland and Forest Avenue Railroad, additional location. Order.
6. Portland and Forest Avenue Railroad, obstructions. Ordinance.

AGREEMENT.

Atlantic and St. Lawrence Railroad Co., Agreement with city of October 31, 1868.

Statutes.

1.

ACT AUTHORIZING THE CITY OF PORTLAND TO AID THE CONSTRUCTION OF THE ATLANTIC AND ST. LAWRENCE RAILROAD.[2]

Private laws 1848, c. 135.

City of Portland authorized to loan its credit to the Atlantic and St. Lawrence Railroad Co.

SEC. 1. The city of Portland is hereby authorized to loan its credit to the Atlantic and St. Lawrence Railroad Company in aid of the construction of their railroad, subject to the following terms and conditions.

This act to be accepted by the directors of said company, and by the inhabitants of said city.

SEC. 2. This act shall not take effect, unless it shall be accepted by the directors of said railroad company, and by the vote of the inhabitants of said city, voting in ward meetings, duly called, according to law; and at least two-thirds of the votes cast at such ward meetings shall be necessary for the acceptance of the act. The returns of such ward meetings shall be made to the aldermen of the city, and by them counted and declared, and the city clerk shall make record thereof.

City treasurer authorized to make and issue the scrip of the city.

SEC. 3. Upon the acceptance of the act as aforesaid, the city treasurer is authorized to make and issue from time to time, for the purposes contemplated in this act, the scrip of said city, in convenient and suitable sums, payable to the holder thereof, on a term of time not less than twenty, nor more than thirty years, with coupons for

[2] For charter and amendatory laws and effect of same, see also Private Laws 1845, c. 195; 1846, c. 310; 1850, c. 304; 1850, c. 335; 1851, c. 431; 1853, c. 14; 1853, c. 41; 1853, c. 150; 1853, c. 178; 1853, c. 195; 1869, c. 84. Whitney v. Atlantic & St. Lawrence Railroad Co., 44 Maine, 362; P. S. & P. R. R. Co., v. G. & Tr. R. Co., 63 Maine, 269. Mortgages of said railroad company to the city recorded in city clerk's office, vol. 7, p. 76; and Cum. Reg. of Deeds B. 226, p. 562; and city clerk's office, vol. 7, p. 475; and Cum. Reg. of Deeds B. 243, p. 225.

interest attached, payable semi-annually, or yearly, as may be agreed.

When $550,000 have been received from assessments and expended on said road, the city treasurer authorized to deliver the directors' scrip to the amount of $200,000.

When $300,000 more may be delivered.

SEC. 4. When the railroad company shall have received from assessments upon the shares of the private stockholders therein, and shall have expended upon the construction of the road, and its necessary equipment, the sum of five hundred and fifty thousand dollars, the city treasurer shall then deliver to the directors of the company, the scrip aforesaid to the amount of two hundred thousand dollars. When the company shall have expended that sum in the further construction and equipment of the road, and shall have received from the assessments upon the shares of private stockholders, the further amount of one hundred thousand dollars the city treasurer shall deliver of the scrip a further amount of three hundred thousand dollars.

When further portions may be delivered.

SEC. 5. When the company shall have expended in the further construction and equipment of the road at least one-half the proceeds of the scrip last named, further portions of the scrip shall be from time to time delivered thereafter, in such amounts and proportions, that the aggregate of all the scrip delivered shall at no time exceed the whole amount of the assessments paid in and expended. But the whole amount of the scrip to be issued and delivered shall never exceed one million of dollars.

Whole amount not to exceed $1,000,000.

Certain pre-requisites to be complied with.

Date of scrip.

SEC. 6. Before the delivery of any of the scrip, in any of the cases provided in the preceding sections, the directors of the company shall furnish satisfactory evidence to the mayor and aldermen of the city, that all the pre-requisites therein prescribed in the several cases have been respectively complied with, and shall file with the city treasurer a certifiate of such compliance, signed by the president and treasurer of the company, to which certificate they shall severally make oath. In all cases, the scrip shall bear date from the delivery thereof, and the proceeds thereof shall be applied by the directors of the company, exclusively to the construction and necessary furniture and equipment of the Atlantic and St. Lawrence railroad.

Proceeds applied exclusively to the construction of said road, &c.

SEC. 7. Upon the delivery of each and every portion of the scrip aforesaid, the directors shall execute and deliver

to the city treasurer, the bond of the company, in an equal amount, payable to the city, conditioned that the company will duly pay the interest on said scrip, and will provide for the reimbursement of the principal thereof, and hold the city harmless on account of the issue of the same, according to the provisions of this act.

Bond to be given treasurer on delivery of scrip.

SEC. 8. The directors shall also transfer to the city, upon the delivery of any portion of the scrip as aforesaid, an equal amount in the shares of the company, to be held as collateral security for the bond of the company, required to be given in such case. And the shares so held as collateral shall be credited on the stock books of the company as fully paid up, and no assessments shall ever be required thereon, nor shall any dividends be paid on the same, nor any right of acting or voting at the meetings of the company be claimed or exercised by reason of said shares, so long as the same shall be held as collateral as aforesaid.

Collateral security.

SEC. 9. From and after the issue and delivery to the directors of any portion of the scrip aforesaid, the city shall have a lien upon the said railroad, and upon all the property and franchise of the company, to secure the performance of the conditions of all the bonds of the company executed and delivered under the provisions of this act.

Lien created on the railroad for said bond.

SEC. 10. For the purpose of providing for the reimbursement of the principal of the scrip, authorized to be issued by this act, there shall be established a sinking fund, and commissioners shall be appointed to manage the same. One of said commissioners shall be appointed by the mayor and aldermen of the city, and one by the directors of the company, and in case of a vacancy in the place of either, the same shall be supplied by the mayor and aldermen, or by the directors, respectively. Both of said commissioners shall be appointed, and qualified before the delivery to the directors of any of the scrip. The commissioners shall severally be sworn to the faithful discharge of the duties enjoined upon them by this act, in presence of the city clerk, who shall make a certificate and record thereof, as in the case of the qualification of city officers. Each of the commissioners

Sinking fund.

Commissioners

Bond.

Compensation.

shall give a bond to the city, with satisfactory sureties, in the penal sum of ten thousand dollars, conditioned for the faithful discharge of his duty as commissioner. They shall receive such compensation as may be established by the directors, which shall be paid to them by the company, and shall not be diminished during their continuance in office.

Sinking fund, how constituted.

SEC. 11. Whenever the directors shall receive any portion of the scrip, authorized as aforesaid to be delivered to them, they shall pay to the city treasurer, two per cent. of the amount of the scrip so delivered, which amount shall be, by the city treasurer, placed to the credit of the commissioners of the sinking fund, and shall constitute a part of said fund. The directors shall also, annually, in the month of April, pay to the city treasurer, from the income of the road, one per cent. of the whole amount of scrip which shall have been, before that time, issued and delivered, and shall be then outstanding; but after the expiration of five years from the time of the delivery and the receipt of the first portion of scrip as aforesaid, the said annual payments from the income of the road shall be increased to one and a half per cent. of the amount of the scrip, then outstanding as aforesaid, and the said annual payments of one per cent. for five years, and one and a half per cent. annually thereafter, shall be successively placed to the credit of the commissioners of the sinking fund, and shall constitute a part of said fund.

Duty of commissioners.

SEC. 12. The commissioners shall have the care and management of all the moneys and securities at any time belonging to said fund; but the moneys uninvested, and the securities, shall be in custody of the city treasurer, who shall be, by virtue of his office, treasurer of the sinking fund, and shall be responsible, on his official bond to the city, for the safe keeping of the moneys and securities of the fund. He shall pay out and deliver any of the said moneys and securities only upon the warrant of the commissioners.

Treasurer.

Moneys belonging to said fund, how invested.

SEC. 13. The commissioners shall from time to time, at their discretion, invest the moneys on hand, securely, so that they shall be productive, and the same may be loaned on mortgage of real estate, or to any county, or

upon pledge of the securities of any county in this State, or invested in the stock of this State, or of the United States, or in the stock of any railroad company in New England, whose road is completed, and whose capital has been wholly paid in. Any portion of the fund may be invested in the city scrip authorized by this act, and such scrip shall not thereby be extinguished, but shall be held by the commissioners, like their other investments, for the purposes of the fund. An amount not exceeding ten per cent. of the fund may be loaned on pledge of the stock of any bank, or of any stock insurance company in this State. And the commissioners may from time to time sell and transfer any of said securities.

To be reserved for the redemption of the principal of said scrip.

Sec. 14. The sinking fund, and all the sums which shall be added thereto by accumulation upon the investments thereof, shall be reserved and kept inviolate for the redemption and reimbursement of the principal of said scrip at the maturity thereof, and shall be applied thereto by the commissioners.

When the shares held as collateral may be sold or transferred.

Sec. 15. Any of the shares in the stock of the railroad company, held by the city as collateral, may be sold and transferred by direction of the commissioners of the sinking fund, with the consent of the directors of the railroad company, whenever an exchange thereof can be advantageously made for any of the city scrip, authorized by this act, or whenever the said scrip can be advantageously purchased with the proceeds of any such sale of such collateral shares. And the scrip so purchased or taken in exchange, shall be thereupon cancelled and extinguished, and the amount thereof shall be endorsed on the respective bonds of the railroad company given on the issue and delivery of such scrip. But no part of the sinking fund, or of its accumulations, shall be applied at any time or in any manner to the redemption and extinguishment of the scrip before maturity thereof.

If directors fail to pay into the sinking fund, per centage on income of road.

Commissioners authorized to sell collateral shares.

Sec. 16. If the directors of the railroad company shall, at any time, fail to pay to the city treasurer, for the sinking fund, the amount aforesaid of one per cent. or of one and a half per cent. required to be paid into the sinking fund, out of the income of the road, the commissioners are authorized, at their discretion, upon such

notice to the company as they shall deem suitable, to sell so many of such collateral shares as may be necessary to produce the amount of such deficiency, and the proceeds of such sale shall thereupon be paid into the sinking fund, and shall be applied to the purposes thereof. And all conveyances and transfers of such collateral shares shall be made by the city treasurer, under the direction of the commissioners of the fund in pursuance of the provisions of this act.

Conveyances and transfers.

Commissioners to keep a record of proceedings.

Annual report.

SEC. 17. The commissioners shall keep a true record of all their proceedings and an account of all the sums paid into the fund, and of the investments made of the same, and shall, annually, in the month of July, report to the mayor and aldermen, and to the directors of the railroad company, their proceedings for the year, the amount and condition of the fund, and the income of the several parts thereof. And their records, and the accounts of the fund, and the securities belonging thereto, shall at all times be open to inspection by such committee as may be appointed for that purpose by the mayor and aldermen, or by the directors of the company.

Power of supreme judicial court, on complaint against said commissioners.

SEC. 18. To secure the faithful discharge of the several trusts confided to the said commissioners under this act, the supreme judicial court is hereby empowered, upon the complaint of the mayor and aldermen, or of the directors of the railroad company, against the said commissioners, or either of them, concerning any of said trusts and duties, by summary process according to the course of proceedings in equity, to hear and adjudge upon the matter of such complaint, and to issue thereon, any suitable writ or process, and make any proper decree to compel the appropriate discharge and performance of such trusts and duties, and to remove the said commissioners, or either of them; and in case of such removal, the vacancy shall be immediately supplied, as provided in the tenth section of this act.

If sinking fund at any time exceed the amount of scrip unredeemed.

SEC. 19. If the said sinking fund with its accumulations, shall at any time exceed the amount of the scrip unredeemed and outstanding, all such excess shall be annually paid over to the railroad company; and if any surplus of the fund shall remain after the redemption and

reimbursement of all the scrip, such surplus shall be paid over to the company.

When to take effect.

SEC. 20. This act shall take effect and be in force, from and after its approval by the governor, so far as to empower the directors of the railroad company, and the inhabitants of the city to act upon the question of accepting the same, as provided in the second section of this act. And the several ward meetings of the inhabitants for that purpose, shall be called and holden within thirty days after such approval. And if the act shall be accepted as aforesaid, then after such acceptance, and record thereof, all the parts of the act shall take effect and be in full force.[3]

2.

ACT AUTHORIZING THE CITY OF PORTLAND TO GRANT FURTHER AID IN THE CONSTRUCTION OF THE ATLANTIC AND ST. LAWRENCE RAILROAD.

Private laws, 1850, c. 335.

City of Portland authorized to loan its credit.

SEC. 1. The city of Portland is hereby authorized to make a further loan of its credit to the Atlantic and St. Lawrence Railroad Company, in aid of the construction of their railroad—subject to the following terms and conditions.

Act when to take effect.

SEC. 2. This act shall not take effect, unless it shall be accepted by the directors of said railroad company, and by the vote of the inhabitants of said city, voting in ward meetings duly called according to law; and at least two-thirds of the whole number of votes cast at such ward meetings shall be necessary for the acceptance of the act. The returns of such ward meetings shall be made to the aldermen of the city, and they shall count and declare the votes returned, and the city clerk shall make record thereof.

Scrip to be issued, &c.

SEC. 3. Upon the acceptance of the act as aforesaid, the city treasurer is authorized to make and issue from time to time, for the purposes contemplated in this act, the scrip of said city, in convenient and suitable sums payable to the holder thereof, on a term of time not less than twenty nor more than thirty years, with coupons for interest attached, payable semi-annually or yearly.

[3] Accepted August 16, 1848. See city records, vol. 4, page 50.

Amount not to exceed $500,000.

SEC. 4. The whole amount of the scrip to be issued and delivered under this act, shall not exceed five hundred thousand dollars, and the same shall be delivered by the city treasurer to the directors of the railroad company from time to time as may be required, subject to the several provisions of this act. In all cases the scrip shall bear date from the delivery thereof, and the proceeds of the same shall be applied by the directors of the company, exclusively to the construction and necessary furniture and equipment of the Atlantic and St. Lawrence railroad.

Date of scrip and how applied.

Bond of the company to be given for the scrip.

SEC. 5. Upon the delivery of each and every portion of the scrip aforesaid, the directors shall execute and deliver to the city treasurer, for the city, the bond of the company in an equal amount, payable to the city, conditioned that the company will duly pay the interest on said scrip, and will provide for the reimbursement of the principal thereof, and hold the city harmless on account of the issue of the same, according to the provisions of this act.

Security to be given if required.

SEC. 6. The directors shall also, if required by the mayor and aldermen of the city, transfer to the city, upon the delivery of any portion of the scrip as aforesaid, an equal amount in the shares of the company, to be held as security for the faithful performance of all the obligations of the company mentioned in the preceding section, and the certificate of such shares shall be delivered to the city treasurer. The shares so transferred shall be credited in the stock books of the company as fully paid up. But the city shall not be taken and held as a stockholder in the company by reason of the transfer of shares for the purposes aforesaid, under the provisions of this act, or of an act passed August first, one thousand eight hundred and forty-eight, nor shall any assessment ever be required on the shares hereby authorized to be transferred as aforesaid, nor shall any dividends be paid on the same, nor any right of acting or voting at the meetings of the company be claimed or exercised by reason of said shares, so long as the same shall be held as security as aforesaid.

City not to be considered a stockholder.

Additional lien.

SEC. 7. From and after the issue and delivery to the directors of any portion of the scrip issued under this act, the city shall have, in addition to the lien which it now has by virtue of the act passed as aforesaid August first, one thousand eight hundred and forty-eight, a further lien upon said railroad, and upon all the property and franchise of the company, to secure the performance of the conditions of all the bonds, executed and delivered under the provisions of this act, which lien may be enforced in the manner hereinafter provided.

Sinking fund.

SEC. 8. For the purpose of providing for the reimbursement of the principal of the scrip, authorized to be issued by this act, a sinking fund shall be established, and shall be under the management of commissioners. The same persons who shall from time to time, be the commissioners of the sinking fund created under the act aforesaid, passed August first, one thousand eight hundred and forty-eight, shall be the commissioners of the sinking fund, created under this act. They shall severally be sworn to the faithful discharge of the duties enjoined upon them by this act, before the delivery of any portion of the scrip hereby authorized, which oath shall be taken in presence of the city clerk, who shall make record thereof, as in the case of the qualification of city officers.

Sinking fund, how raised.

SEC. 9. Whenever the directors shall receive any portion of the scrip, authorized as aforesaid to be delivered to them, they shall pay to the city treasurer two per cent. of the amount of the scrip so delivered, which amount shall be by the city treasurer placed to the credit of the commissioners of the sinking fund, and shall constitute a part of the fund established by this act. The directors shall also annually, in the month of April, pay to the city treasurer, from the income of the road, one per cent. of the whole amount of scrip which shall have been before that time issued and delivered under this act, and which shall be then outstanding; but after the expiration of five years from the time of the delivery and receipt of the first portion of scrip as aforesaid, the said annual payments from the income of the road shall be increased to one and a half per cent. of the amount of the scrip so

Sinking fund to be reserved for a specific purpose.

Shares in the stock may be exchanged for scrip.

issued and then outstanding as aforesaid, and the said annual payment of one per cent. for five years, and one and a half per cent. annually thereafter, shall be successively placed to the credit of the commissioners of the sinking fund, and shall constitute a part of said fund established by this act.

SEC. 10. The commissioners shall have the care and management of all the moneys and securities at any time belonging to said fund; but the moneys uninvested, and the securities, shall be in the custody of the city treasurer, who shall be, by virtue of his office, treasurer of the sinking fund established by this act, and shall be responsible in his official bond to the city, for the safe keeping of the moneys and securities of the fund. He shall pay out and deliver any of said moneys and securities only upon the warrant of the commissioners.

SEC. 11. The commissioners shall from time to time, at their discretion, invest the moneys on hand, securely, so that they shall be productive, and the same may be loaned on mortgage of real estate, or to any county, or upon pledge of the securities of any county in this State, or invested in the stock of this State, or of the United States. And any portion of the fund may be invested in the scrip authorized by this act, or by the aforesaid act of August first, one thousand eight hundred and forty-eight, and such scrip shall not thereby be extinguished, but shall be held by the commissioners, like their other investments, for the purposes of the fund. An amount not exceeding twelve per cent. of the fund may be loaned on pledge of the stock of any bank, or of any stock insurance company in this State, and the commissioners may, from time to time sell and transfer any of said securities.

Commissioners authorized to sell stock in certain cases.

SEC. 12. The sinking fund aforesaid, and all the sums which shall be added thereto by accumulation upon the investments thereof, shall be reserved and kept inviolate for the redemption and reimbursement of the principal of the scrip authorized by this act at the maturity thereof, and shall be applied thereto by the commissioners.

Sinking fund to be reserved for a specific purpose.

SEC. 13. Any of the shares in the stock of the company, held by the city for security, as provided in the

sixth section of this act, may be sold and transferred by the commissioners of the sinking fund, with the consent of the directors of the company, whenever an exchange thereof can be advantageously made for any of the scrip authorized by this act, or whenever the said scrip can be advantageously purchased with the proceeds of any such sale of such collateral shares. And the scrip so purchased and taken in exchange, shall be thereupon cancelled and extinguished, and the amount thereof shall be endorsed on the respective bonds of the company given on the issue and delivery of such scrip. But no part of the sinking fund established by this act, or of its accumulations, shall be applied at any time or in any manner to the redemption and extinguishment of the scrip, before the maturity thereof.

Shares in the stock may be exchanged for scrip.

SEC. 14. If the directors of the company shall at any time fail to pay to the city treasurer for the sinking fund created by this act, the amount aforesaid of one per cent. or of one and a half per cent. required to be paid into the sinking fund, out of the income of the road, the commissioners are authorized, at their discretion, upon such notice to the company as they shall deem suitable, to sell so many of the shares held by the city for security, as may be necessary to supply the amount of such deficiency, and the proceeds of such sale shall thereupon be paid into the sinking fund, and shall become a part thereof. All such conveyances and transfers of shares, which may be sold as aforesaid, shall be made by the city treasurer, under the direction of the commissioner.

Commissioners authorized to sell stock in certain cases.

SEC. 15. The commissioners shall keep a true record of all their proceedings, and an account of all the sums paid into the fund, and of the investments of the same, and shall, annually in the month of July, report to the mayor and aldermen of the city, and to the directors of the railroad company, their proceedings for the year, the amount and condition of the fund, and income of the several parts thereof. Their records, and the accounts of the fund, and the securities belonging thereto shall at all times be open to the inspection of any committee

Record, how kept.

appointed for that purpose by the mayor and aldermen, or by directors of the company.

Matters of complaint between the city and commissioners, how adjusted.

SEC. 16. To secure the faithful discharge of the several trusts confided to the said commissioners under this act, the supreme judicial court is hereby empowered, upon the complaint of the mayor and aldermen of the city, or of the directors of the railroad company, against the said commissioners or either of them, concerning any of their said trusts and duties, by summary process, according to the course of procedings in equity, to hear and adjudge upon the matters of such complaint, and to issue thereon, any suitable writ or process, and make any lawful decree to compel the proper discharge and performance of such duties and trusts, and to remove the said commissioners or either of them.

Excess of sinking fund, how applied.

SEC. 17. If the said sinking fund with its accumulations shall at any time exceed the amount of the scrip unredeemed and outstanding, issued under this act, all such excess shall be annually paid over to the railroad company; and if any surplus of the fund shall remain after the redemption and reimbursement of all the said scrip, such surplus shall be paid over to the company. And the mayor and aldermen may from time to time, cause to be reconveyed to the railroad company, such parts of the stock transferred to the city under this act, or the act aforesaid, passed August first, one thousand eight hundred and forty-eight, as they may deem not to be required for the securities herein provided. Upon the final completion of all the duties enjoined upon the commissioners under this act, their records and accounts shall be deposited with the railroad company.

Lien to be secured by mortgage.

SEC. 18. For the purpose of securing and enforcing the lien granted to the city by the seventh section of this act, and by the ninth section of the act aforesaid, passed August first, one thousand eight hundred and forty-eight, the directors of the company are hereby authorized, and it shall be their duty whenever thereby directed by the mayor and aldermen, to execute and deliver to the city of Portland a mortgage of said railroad and of all its property real and personal, and of the franchise of the

company. Such mortgage shall be signed by the president of the company in his official capacity, and shall be executed according to the laws of the several States through which the railroad shall pass, and shall be of due and legal form, and shall contain apt and sufficient terms for the security of the city against any liabilities then existing, or which may thereafter be incurred in pursuance of this act, and of the act aforesaid, passed August first, one thousand eight hundred and forty-eight. The record of such mortgage in the registry of deeds for Cumberland county shall be a sufficient registry thereof to all intent and purposes, within this State. If any portion of the railroad shall not have been completed at the time of the execution of such mortgage, the directors shall be held whenever thereto requested, as aforesaid, to execute and deliver other like mortgages of any other portion of the road and property, as may be from time to time required, and such further mortgage shall be subject to like provisions, and shall have like operation as is hereinbefore prescribed. Mortgage, how executed, &c.

Sec. 19. If the directors of the company shall neglect or refuse to execute and deliver any such mortgage, after request as aforesaid, the mayor and aldermen may cause a suit in equity to be instituted in the name of the city to compel the due execution and delivery thereof. The supreme judicial court for the county of Cumberland, shall have jurisdiction of such suit, and shall hear and determine the same, by summary process, in their discretion, and shall make such decree therein as may be suitable to effect the purposes herein required. Neglect of duty, &c.

Sec. 20. For the purpose of foreclosing any such mortgage upon the property and franchise of the company within this State, it shall be sufficient for the mayor and aldermen to give notice according to the mode prescribed in the fifth section of the one hundred and twenty-fifth chapter of the revised statutes, which notice may be published in a newspaper printed in the city of Portland, and record thereof may be made within thirty Foreclosure of mortgage.

days after the date of the last publication, in the registry of deeds for the county of Cumberland, which publication and record shall be sufficient for the purposes of such foreclosure. Upon the expiration of three years from and after such publication, if the conditions of such mortgage shall not within that time have been performed, the foreclosure shall be complete, and shall be sufficient to make the title to all the property and franchise aforesaid, absolute in the city of Portland. And any transfer of any of the personal property of the company, made after publication of such notice to foreclose, without the consent of the mayor and aldermen, shall be wholly void; but lawful transfers and changes of any of the personal property of the company, not including the franchise, and the rails actually laid, and the right of way, may be made notwithstanding such mortgage, before publication of notice to foreclose as aforesaid; and all personal property acquired by the company, by purchase, exchange or otherwise, after the execution and delivery of any such mortgage, shall be covered and held thereby.

City of Portland to take possession of the road in case the company omit to pay the interest.

Notice, how given.

SEC. 21. If the directors of the company shall at any time neglect or omit to pay the interest which may become due upon any portion of the scrip issued and delivered under the provisions of this act, or of the act aforesaid, passed August first, one thousand eight hundred and forty-eight, or to make the annual payments thereby required for the sinking fund, the city of Portland may take actual possession in the manner hereinafter provided, of the railroad, of all the property real and personal of the company and of the franchise thereof, and may hold the same and apply the income thereof to make up and supply such deficiencies of interest and amounts payable for the sinking fund and all further deficiencies that may occur, while the same are so held, until such deficiencies shall be fully made up and discharged. A written notice signed by the mayor and aldermen, or by a majority of their number, and served upon the president or treasurer, or any director of the company, or if there are none such, upon any stockholder in the company, stating that the city

thereby takes actual possession of the railroad, and of the property and franchise of the company, shall be a sufficient actual possession thereof and shall be a sufficient legal transfer of all the same for the purposes aforesaid to the city, and shall enable the city to hold the same against any other transfers thereof, and against any other claims thereon, until such purposes have been fully accomplished. Such possession shall not be considered as an entry for foreclosure, under any mortgage hereinbefore provided, nor shall the rights of the city or of the company under such mortgage be in any manner affected thereby.

All money accruing from the road after said notice to belong to the city.

SEC. 22. All moneys received by or for the railroad company, after notice as aforesaid, from any source whatever, and by whomsoever the same may be received, shall belong to and be held for the use and benefit of the city in the manner, and for the purposes herein provided, and shall, after notice given to persons receiving the same respectively, be by them paid to the city treasurer, which payment shall be an effectual discharge from all claims of the company therefor; but if any person, without such notice, shall make payment of moneys so received to the treasurer of the company, such payment shall be a discharge of all claims of the city therefor. All moneys recived by the treasurer of the company, after such notice, or in his hands at the time such notice may be given, shall be by him paid to the city treasurer, after deducting the amount expended, or actually due for the running expenses of the road, for the salaries of the officers of the company, and for repairs necessary for conducting the ordinary operations of the road. Such payments to the city treasurer shall be made at the end of every calendar month, and shall be by him applied to the payment of the interest due as aforesaid, and placed to the credit of the commissioners of the sinking fund, in the amounts required by the provisions of this act, and the act aforesaid, passed August first, one thousand eight hundred and forty-eight. And any person who shall pay or apply any moneys received as aforesaid in any manner contrary to the foregoing provisions, shall be personally liable there-

Penalty, &c.

for, and the same may be recovered in an action for money had and received, in the name of the city treasurer, whose duty it shall be to sue for the same, to be by him held and applied as is herein required.

A writ of injunction may be issued.

SEC. 23. For the purpose of effecting the objects prescribed in the two preceding sections, the mayor and aldermen may cause a suit in equity to be instituted in the name of the city, in the supreme judicial court in the county of Cumberland, against the railroad company, its directors, and any other person, as may be necessary for the purpose of discovery, injunction, account or other relief under the provisions of this act. And any judge of the court may issue a writ of injunction or any other suitable process on any such bill, in vacation or in term time, with or without notice, and the court shall have jurisdiction of the subject matter of such bill, and shall have such proceedings and make such orders and decrees as may be within the powers and according to the course of proceedings of courts of equity, and as the necessities of the case may require.

Directors to be appointed by the city of Portland in case the company neglect or refuse.

SEC. 24. If the railroad company shall, after notice of possession as aforesaid, neglect to choose directors thereof, or any other necessary officers, or none such shall be found, the mayor and aldermen of the city shall appoint a board of directors, consisting of not less than seven persons or any other necessary officers, and the persons so appointed shall have all the power and authority of officers chosen or appointed under the provisions of the act establishing said company, and upon their acceptance of such offices, shall be subject to all the duties and liabilities thereof.

Act when to take effect.

SEC. 25. This act shall take effect from and after its approval by the governor, so far as to empower the directors of the railroad company, and the inhabitants of the city to act upon the question of accepting the same. The several ward meetings of the inhabitants for that purpose, shall be called and holden within thirty days after such approval. And if the act shall be accepted as aforesaid, then, after such acceptance, and record thereof, all the parts of the act shall take effect and be in full force.[4]

[4] Accepted August 22, 1850. See city records, vol. 5, page 352.

3.

THE CITY OF PORTLAND TO GRANT FURTHER AID IN THE CONSTRUCTION OF THE ATLANTIC AND ST. LAWRENCE RAILROAD.

Private laws of 1852, c. 475.

SEC. 1. The city of Portland is hereby authorized to make a further loan of its credit to the Atlantic and St. Lawrence Railroad Company for the purpose of aiding the final completion and equipment of the railroad of said company subject to the following terms and conditions.

Loan authorized.

Act not to take effect unless accepted by company and city of Portland.

SEC. 2. This act shall not take effect, unless it shall be accepted by the directors of said railroad company, and by the vote of the inhabitants of said city, voting in ward meetings duly called according to law; and at least two-thirds of the whole number of votes cast at such ward meetings shall be necessary for the acceptance of the act. The returns of such ward meetings shall be made to the aldermen of the city, and they shall count and declare the votes returned, and the city clerk shall make record thereof.

Return of votes how made.

City scrip, how issued and amount.

SEC. 3. Upon the acceptance of the act as aforesaid, the city treasurer shall make and issue, for the purposes contemplated in this act, the scrip of said city in convenient and suitable sums, payable to the holder thereof, on a term of time not less than twenty nor more than thirty years, with coupons for interest attached, payable semi-annually or yearly. The whole amount of said scrip shall not exceed the sum of five hundred thousand dollars, and the same shall be delivered by the city treasurer to the directors of the railroad company, subject to the several provisions of this act. The proceeds of the same shall be applied by the directors of the company, exclusively to the construction and necessary equipment of the Atlantic and St. Lawrence Railroad.

—how applied.

To be secured by penal bond.

SEC. 4. Upon the delivery of the scrip aforesaid, the directors of the railroad company shall execute and deliver to the city treasurer, for the city, the bond of the company, in a suitable penal sum, conditioned that the company will duly pay the interest and the principal of said scrip, and will hold the city harmless and free from

all expendition, damage or loss, on account of the issue and delivery of the same.

Mortgage bonds issued and secured by deed of trust and mortgage of road.

SEC. 5. As a further security for the issue and delivery of said scrip, the directors of the company, shall also deliver to the city treasurer the mortgage bonds of said company, issued and bearing date on the first day of April, eighteen hundred and fifty-one, and secured by a deed of trust and mortgage of said railroad, and the franchise and property of the company of the same date, heretofore executed and delivered by said company to trustees for the benefit of the holders of the mortgage bonds aforesaid. The amount of said mortgage bonds, so delivered to the city treasurer, shall be equal to the amount of the scrip issued and delivered under this act, and the same shall be held by the city treasurer, for the time being, as collateral security to the obligation and bond given by the company as aforesaid, to hold and save the city harmless on account of the issue and delivery of said scrip. Upon the payment by the company of the interest which shall from time to time accrue upon the said scrip, the city treasurer shall cancel and surrender to the company an amount of the interest warrants attached to said mortgage bonds equal to, and corresponding as nearly as may be, in date, to the amount of interest so paid on said scrip.

Amount of bonds equal to the amount of scrip.

Interest warrants cancelled on payment of interest.

Trustees authorized, on non-payment of scrip, to convey title to city of Portland.

SEC. 6. At the maturity of the mortgage bonds herein provided to be delivered as collateral security, and after the payment of all the other mortgage bonds issued under said deed of trust and mortgage if any portion of the scrip hereby authorized to be issued, shall be unredeemed and outstanding, the trustees, for the time being, under said deed of trust and mortgage, shall be authorized to release, assign, and convey to the city of Portland, all the title and interest which they may then have in the estate, property and franchise of the company by virtue of said deed, and of any other conveyances made in pursuance of the covenants therein contained, which conveyance shall be a discharge of said trustees from all the trusts created and declared in said deed, and the city shall by such conveyance, take and hold the said estate, property and fran-

chise, as in mortgage, for the security and indemnity of the city, on account of the issue and delivery of its scrip as herein authorized until the final redemption and reimbursement of said scrip, and the interest accruing thereon. City to hold the property conveyed as security.

Sec. 7. This act shall take effect and be in force from and after its approval by the governor, so far as to authorize the directors of the company, and the inhabitants of the city to act upon the question of accepting the same. The several ward meetings of the inhabitants for that purpose shall be holden within three months after such approval, and if the act shall be accepted as aforesaid, then after such acceptance and record thereof, all the parts of the act shall take effect and be in force. Act when to take effect.

Approved February 13, 1852.

4.

THE CITY OF PORTLAND TO GRANT FURTHER AID IN THE CONSTRUCTION OF THE ATLANTIC AND ST. LAWRENCE RAILROAD.

Sec. 1. The city of Portland is hereby authorized to make a further loan of its credit to the Atlantic and St. Lawrence Railroad Company, in aid of the construction and furnishing of their railroad, subject to the following terms and conditions. Private laws of 1853, c. 4. Loan authorized.

Sec. 2. This act shall not take effect unless it shall be accepted by the directors of said Railroad Company and by the vote of the inhabitants of said city, voting in ward meetings duly called according to law, and at least two-thirds of the whole number of votes cast at such ward meetings shall be necessary for acceptance of the act. The returns of each ward meeting shall be made to the aldermen of the city, and they shall count and declare the votes returned, and the city clerk shall make record thereof. Acceptance of act, conditions of, &c. Returns of ward meetings, how made.

Sec. 3. Upon the acceptance of the act as aforesaid, the city treasurer is authorized to make and issue, on demand made by the said directors, for the purposes contemplated in this act, the scrip of said city in convenient and suitable sums, payable to the holder thereof, on a term of time not less than twenty nor more than thirty years, with coupons for interest attached. Acceptance of act, loan how made, &c.

Scrip of loan, amount authorized.

SEC. 4. The whole amount of the scrip to be issued and delivered under this act, shall not exceed three hundred and fifty thousand dollars, and the same shall be delivered by the city treasurer to the directors of the railroad company as they may require the same. The proceeds of such scrip shall be applied by the directors of the company exclusively to the construction and necessary furniture and equipment of the Atlantic and St. Lawrence Railroad.

Scrip, proceeds of, how applied.

Road, mortgaged to secure payment of scrip.

Mortgage, how executed and recorded.

SEC. 5. Upon the issue and delivery of the scrip aforesaid, the directors of the railroad company shall cause a mortgage to be executed and delivered to the city, in the name of the company, conveying to the city, subject to any mortgages existing before the passage of this act, all the estate, property and franchise of the company, conditioned that the company will duly pay the interest accruing from time to time on the scrip issued under this act, and will pay the principal of the same at the maturity thereof. Such mortgage shall be executed according to the laws of the several states through which the railroad shall pass. The record thereof in the registry of deeds in Cumberland county, shall be a sufficient registry of the same to all intents and purposes within this State.

Mortgage, failure to perform conditions of, &c.

SEC. 6. Upon failure to perform any of the conditions of said mortgage, the city shall be authorized to take possession of the estate, property and franchise thereby conveyed, and the proceedings under such possession, and all proceedings for the foreclosure of said mortgage, and the rights, liabilities and remedies of the parties, under such possession and entry for foreclosure shall be governed, regulated, limited and controlled in the manner that is provided in the twentieth, twenty-first, twenty-second, twenty-third, and twenty-fourth sections of an act passed on the twenty-seventh day of July, eighteen hundred and fifty, entitled, "An Act to authorize the city of Portland to grant further aid in the construction of the Atlantic and St. Lawrence railroad," in respect to the mortgage therein mentioned.

Act when to take effect.

SEC. 7. This act shall take effect from and after its approval by the governer, so far as to empower the directors of the company and the inhabitants of the city to

act upon the question of accepting the same. The several ward meetings of the inhabitants for that purpose, shall be called and holden within ninety days after such approval. And if the act shall be accepted as aforesaid, then, after such acceptance and record thereof, all the parts of the act shall take effect and be in force.

Approved February 5, 1853.

5.

AN ACT MAKING FURTHER PROVISIONS RESPECTING LOANS OF CREDIT HERETOFORE MADE BY THE CITY OF PORTLAND TO THE ATLANTIC AND ST. LAWRENCE RAILROAD COMPANY.

Private laws of 1868, c. 601.

SEC. 1. The city of Portland is hereby authorized to make such arrangements as the city council may determine to be necessary and expedient, to provide for the extension of such parts of the obligation given to the city by the Atlantic and St. Lawrence Railroad Company, under the acts of August one, eighteen hundred and forty-eight and July twenty-seven, eighteen hundred and fifty, as may not be satisfied by the sinking funds established under those acts; and shall have and may exercise, until all the balance of indebtedness which may arise under said obligations is fully paid, all the rights and powers granted by said acts for the security of the city, and for the enforcement of its lien upon the railroad and property of said company.

City council may arrange for extension of obligations of A. & St. L. R. R. to city.

Further powers vested in council and continuance of same.

SEC. 2. The commissioners of the sinking funds established by said acts, shall be commissioners to receive such contributions as may be paid by the railroad company towards a further sinking fund for the redemption of the unsatisfied balance of indebtedness as aforesaid. They shall have succession, as provided in said acts, and shall be invested with all the powers and subject to all the duties and liabilities in respect to the management of such further sinking fund and the securities of the same, and the application thereof, as is now provided by said acts. They may invest the moneys of such fund in any of the debt of the city of Portland, and may make such other investments of the same as is authorized by said acts, except investments in railroad stocks, or upon

Commissioners of sinking fund.

Powers, duties and succession.

Investments of fund, how made, &c.

Rate of interest on mortgages of real estate.

pledge of the stocks of banks or insurance companies. They shall be authorized in making investments upon mortgages of real estate, to contract for a rate of interest not exceeding eight dollars in the hundred by the year.

Contributions to sinking fund, when and how made.

SEC. 3. The contributions to such further sinking fund shall be in each of the years eighteen hundred and sixty-nine and eighteen hundred and seventy, one thirty-second part of the average amount of such unsatisfied indebtedness subsisting in those years; but afterwards, the sum of twenty-five thousand dollars annually, until the final reimbursement and discharge of such indebtedness. All of such contributions shall be made by the railroad company in equal half-yearly instalments, on the first days of January and July, in every year.

Duties and liabilities of city treasurer.

SEC. 4. The city treasurer shall perform such duties and be subject to such liabilities in respect to the moneys and securities of such further sinking fund, as now prescribed by law in respect to the sinking funds under the acts aforesaid.

City council may, upon petition, provide for sinking fund in England.

SEC. 5. In lieu of the provisions made in the preceding sections for the establishment and maintenance of a further sinking fund for the redemption of the balance of indebtedness aforesaid, it shall be lawful for the city council, upon petition by the railroad company, to provide by city ordinance for the establishment of a sinking fund for the same purpose, at London, in England, to be held and managed by two commissioners, one of whom shall be appointed by the mayor and aldermen of the city, and one by the directors of the railroad company; and in case of vacancies, the same shall be supplied by new appointments made by them respectively. The railroad company shall pay and contribute to such sinking fund, in each of the years eighteen hundred and sixty-nine and eighteen hundred and seventy, one-thirty-second part in sterling money of the average amount of such unsatisfied indebtedness, subsisting in those years; and afterwards, the sum of five thousand pounds sterling annually, until final redemption and discharge of all such indebtedness. All of such payments and contributions shall be made in equal half-yearly instalments on the first days of January and July in every year. The commissioners so

Commissioners for same, by whom appointed, &c.

Payments and contributions to same, when to be made.

appointed and accepting the trust, shall be subject to such regulations in the investment and application of the fund, as shall be established by the city council by the ordinance aforesaid. The railroad company shall be in all respects and at all events responsible for the safe keeping and proper application of the fund so established. And if such ordinance as is contemplated by this section shall be passed by the city council, upon petition of the railroad company as aforesaid, then the second, third and fourth sections of this act shall cease to have any effect.

Commissioners subject to regulations established by city council.

Responsibility of railroad company regarding saf keeping and application of funds.

Proviso as to adoption of ordinance.

SEC. 6. Whenever the amount of the sinking fund hereby authorized, in either form, shall be equal to the unsatisfied indebtedness aforesaid, the commissioners shall make over and deliver the same to city, in full discharge of such indebtedness.

Provisions for payment to city of fund when equal to indebtedness.

SEC. 7. Nothing in this act contained, nor any arrangements or proceedings made and entered into under the same, shall, in any manner, affect or impair the priority of security and lien which the city now has, for the loans of its credit, under the acts aforesaid.

Liens of city upon railroad not impaired by this act.

SEC. 8. No power shall be exercised under this act, nor any privileges enjoyed under it until it shall have been accepted by the city council, and by the directors of this railroad company. The evidence of acceptance by the directors shall be filed with the city clerk, and entered in the records of the mayor and aldermen.

Provisions for acceptance of same.

Approved March 3, 1868.

6.

ACT AUTHORIZING FURTHER AID IN CONSTRUCTING THE PORTLAND AND OGDENSBURG RAILROAD.

SEC. 1. The city of Portland[5] is hereby authorized to loan its credit to the Portland and Ogdensburg Railroad Company, in aid of the construction of their railroad, subject to the following terms and conditions.

Act authorizing further aid in constructing the P. and O. Railroad.

SEC. 2. This act shall not take effect until it be accepted by the directors of said railroad company, and by the vote of the inhabitants of said city, voting in

1872, c. 166.

[5] See also charters and amendatory laws; private laws, 1867, c. 252; 1868, c. 591; 1871, c. 611; 1872, c. 167; 1873, c. 336; 1875, c. 1; 1875, c. 146; 1878, c. 14.

ward meetings, duly called according to law; and at least two-thirds of the votes cast at such ward meetings shall be necessary for the acceptance of the act. The returns of such ward weetings shall be made to the aldermen of the city, and by them counted and declared, and the city clerk shall make a record thereof.

SEC. 3. Upon the acceptance of the act as aforesaid, the city treasurer shall make and issue from time to time, for the purpose contemplated in this act, the scrip of said city in convenient and suitable sums, payable to the holder thereof on a term of time not less than thirty nor more than forty years, with coupons for interest at six per cent. attached, payable semi-annually or yearly. The whole amount of said scrip shall not exceed twenty-five hundred thousand dollars, and the same shall be delivered by the city treasurer to the directors of said railroad company, subject to the several provisions of this act; the proceeds of the same shall be applied by the directors of the company exclusively to the construction and necessary equipment of the Portland and Ogdensburg Railroad.

SEC. 4. Before the delivery of any portion of the scrip aforesaid, the directors of the railroad company shall execute and deliver to the city treasurer, for the city, the bond of the company, in a suitable penal sum, conditioned that the company will duly pay the interest and the principal of said scrip, and will hold the city harmless and free from all expenditure, damage or loss on account of the issue and delivery of the same.

SEC. 5. As a further security for the issue and delivery of said scrip, the directors of the company shall also deliver to the city treasurer the mortgage bonds of said company, issued and bearing date on the first day of November, eighteen hundred and seventy-one, and secured by a deed of trust and mortgage of said railroad, and the franchise and property of the company, of the same date heretofore executed and delivered by said company to trustees, for the benefit of the holders of the mortgage bonds aforesaid. The amount of said mortgage bonds so delivered to the city treasurer shall be equal to

the amount of scrip issued and delivered under this act, and the same shall be held by the city treasurer for the time being as collateral security to the obligation and bond given by the company as aforesaid, to hold and save the city harmless on account of the issue and delivery of said scrip. Upon the payment by the company of the interest which shall from time to time accrue upon said scrip, the city treasurer shall cancel and surrender to the company an amount of the interest warrants attached to said mortgage bonds, equal to, and corresponding as nearly as may be in date, to the amount of interest so paid on said scrip.

SEC. 6. At the maturity of the mortgage bonds herein provided to be delivered as collateral security, and after the payment of all the other mortgage bonds issued under said deed of trust and mortgage, if any portion of the scrip hereby authorized to be issued shall be unredeemed and outstanding, the trustees, for the time being, under said deed of trust and mortgage, shall be authorized to release and assign to the city of Portland all the title and interest which they may then have in the estate, property, and franchise of the company by virtue of said deed, and of any other conveyance made in pursuance of the covenants therein contained, which conveyance shall be a discharge of said trustees from all trusts created and declared in said deed, and the city shall by such conveyance, take and hold the said estate, property, and franchise as in mortgage, for the security and indemnity of the city, on account of the issue and delivery of its scrip as herein authorized, until the final redemption and reimbursement of said scrip, and the interest accruing thereon.

SEC. 7. The directors shall also transfer to the city upon the delivery of any portion of the scrip herein authorized, an equal amount in the shares of the company, until the whole number of shares authorized under the charter of said company shall be issued, to be held as collateral security for the bond of the company required to be given in such case, and the shares so held as collateral shall be credited on the stock books of the company

as fully paid up, and no assessment shall ever be required thereon, nor shall any dividends be paid on the same, nor any right of voting or acting at the meetings of the company be claimed or exercised by reason of said shares, so long as the same shall be held as collateral as aforesaid.

SEC. 8. For the purpose of providing for the reimbursement of the principal of the scrip, authorized to be issued by this act, there shall be established a sinking fund, and two commissioners shall be appointed to manage the same, who shall be appointed by the mayor and aldermen of the city, and in case of vacancy in the place of either, the same shall be supplied by the mayor and aldermen. Both of said commissioners shall be appointed and qualified before the delivery, to the directors, of any of the scrip. The commissioners shall severally be sworn to the faithful discharge of the duties enjoined upon them by this act, in presence of the city clerk, who shall make a certificate and record thereof as in the case of the qualification of city officers; each commissioner shall give a bond to the city with satisfactory sureties, in the penal sum of twenty thousand dollars, conditioned for the faithful discharge of his duty as commissioner. They shall receive such compensation as may be established by the directors, which shall be paid to them by the company, and shall not be diminished during their continuance in office.

SEC. 9. The said company, at the expiration of five years from the first delivery of any of the scrip authorized as aforesaid to be delivered, shall pay to the city treasurer one per cent. of the whole amount of said scrip, which payment shall be by the city treasurer placed to the credit of the commissioners of the sinking fund, and shall constitute a part of the said fund; and thereafter the said company shall also annually in the month of September, pay to the city treasurer from the income of the road, one per cent. of the whole amount of said scrip then outstanding, which annual payments shall be successively placed to the credit of the commissioners of the sinking fund, and shall constitute a part of said fund.

SEC. 10. The commissioners shall have the care and management of the moneys and securities at any time belonging to said fund; but the moneys invested and the securities shall be in custody of the city treasurer, who shall be, by virtue of his office, treasurer of the sinking fund, and shall be responsible on official bond to the city for the safe keeping of the moneys and securities of the fund: he shall pay out and deliver any of said moneys and securities only upon the warrant of the commissioners.

SEC. 11. The commissioners shall from time to time, at their discretion, invest the moneys on hand securely, so that they shall be productive, and the same may be loaned on mortgage of real estate, or to any county, or upon pledge of the securities of any county in this State, or invested in the stock of this State, or of the United States, or in the bonds of any railroad company in New England whose road is completed, and whose capital has been wholly paid in. Any portion of the fund may be invested in the city scrip authorized by this act, and such scrip shall not thereby be extinguished, but shall be held by the commissioners, like their other investments, for the purposes of the fund. An amount not exceeding ten per cent. of the fund may be loaned on pledge of the stock of any bank or of any stock insurance company in the State, and the commissioners may, from time to time, sell and transfer any of said securities.

SEC. 12. The sinking fund and all the sums which shall be added thereto by accumulation, upon the investment thereof, shall be reserved and kept inviolate, for the redemption and reimbursement of the principal of said scrip at the maturity thereof, and shall be applied thereto by the commissioners.

SEC. 13. Any of the shares in the stock of the railroad company, held by the city as collateral, may be sold and transferred by direction of the commissioners of the sinking fund, with the consent of the directors of the railroad company, whenever an exchange thereof can be advantageously made for any of the city scrip, authorized by this act, or whenever the said scrip can be advantageously purchased with the proceeds of any such sale of

such collateral shares. And the scrip so purchased, or taken in exchange, shall be thereupon cancelled and extinguished, and the amount thereof shall be indorsed on the respective bonds of the railroad company given on the issue of and delivery of such scrip. But no part of the sinking fund, or of its accumulations, shall be applied at any time or in any manner to the redemption and extinguishment of the scrip before maturity thereof.

SEC. 14. The commissioners shall keep a true record of all their proceedings, and an account of all sums paid into the fund, and of the investments made of the same, and shall annually, in the month of July, report to the mayor and aldermen and to the directors of the railroad company, their proceedings for the first year, the amount and condition of the fund, and the income of the several parts thereof. And their records and the accounts of the fund, and the securities belonging thereto, shall at all times be open to inspection by such committee as may be appointed for that purpose by the mayor and aldermen, or by the directors of the company.

SEC. 15. To secure the faithful discharge of the several trusts confided to the said commissioners under this act, the supreme judicial court is hereby empowered, upon the complaint of the mayor and aldermen, or of the directors of the railroad company against the said commissioners, or either of them, concerning any of said trusts and duties, by summary process according to the course of proceedings in equity, to hear and adjudge upon the matter of such complaint, and to issue thereon any suitable writ or process, and make any proper decree to compel the appropriate discharge and performance of such trusts and duties, and to remove the said commissioners, or either of them; and in case of such removal the vacancy shall be immediately supplied, as provided in the tenth section of this act.

SEC. 16. If the said sinking fund with its accumulation shall at any time exceed the amount of the scrip unredeemed and outstanding, all such excess shall be annually paid over to the railroad company, and if any surplus of the fund shall remain after the redemption and reimburse-

ment of all the scrip, such surplus shall be paid over to the company.

SEC. 17. The treasurer of the city of Portland shall, on request of the directors of the said railroad company, after the acceptance of this act by the inhabitants of this city and the execution and delivery of the bond of said company before mentioned, issue and deliver to the treasurer of said railroad company, toward said loan, bonds of said city of Portland to the amount of fifty thousand dollars, and thereafter to issue and deliver to said treasurer of said company bonds of said city of Portland in sums of fifty thousand dollars as often as it shall appear by the report of the engineer of said railroad company, and to the satisfaction of the mayor and aldermen of said city, that work has been done or materials furnished to the amount before granted on the extension of said railroad from North Conway to a connection with the western division at the Connecticut river, until the entire amount of the loan shall be furnished.

SEC. 18. This act shall take effect and be in force from and after its approval by the governor so far as to authorize the directors of the company and the inhabitants of the city to act upon the question of accepting the same. The several ward meetings of the inhabitants for that purpose shall be called and holden within thirty days after request by the president and directors of said company to the mayor and aldermen therefor, and within one year after the approval of this act, and if the act shall be accepted as aforesaid, then after such acceptance and record thereof, all the parts of the act shall take effect and be in force, and the citizens of Portland may vote twice upon the question of accepting this act and no more.

7.

CHARTER OF PORTLAND AND FOREST AVENUE RAILROAD COMPANY.

SECTION 1. Eliphalet Clark, John B. Coyle, John W. Adams, Newell A. Foster and Warren Sparrow, their associates and successors, are hereby constituted a corporation by the name of the Portland and Forest

Corporators.

Corporate name.

Construction.

Avenue Railroad Company, with authority to construct maintain and use a railroad to be operated by horse power, with convenient single or double tracks, from such point or points in the city of Portland, upon and over such streets therein, as shall from time to time be fixed and determined by the municipal officers of said city of Portland, and assented to in writing by said corporation, to the boundary line between said city and the town of Westbrook, and thence upon and over such streets, town and county roads in said town of Westbrook as from time to time, may be fixed and determined by the municipal officers of said town, and assented to in writing by said corporation, to some point at or near the entrance to Evergreen Cemetery, and to such other point or points in said town of Westbrook, as may in like manner from time to time be fixed and determined by the municipal officers of said town, and assented to in writing by said corporation; said corporation shall also have authority to construct, maintain and use said railroad over and upon any lands where the land damages have been mutually settled by said corporation and the owners thereof; but said corporation shall make no erections within any of the tide waters of Back Cove without the written approval of the harbor commissioners; *provided*, *however*, that all tracks of said railroad shall be laid at such distances from the sidewalks of said city of Portland and town of Westbrook, as the municipal officers thereof, respectively, shall in their order fixing the routes of said railroad determine to be for public safety and convenience. The written assent of said corporation to any vote or votes of the municipal officers of either said city or town, prescribing from time to time the routes of said railroad, shall be filed with the respective clerks of said city or town, and shall be taken and deemed to be the locations thereof. Said corporation shall have power from time to time, to fix such rates of compensation for transporting persons or property, as it may think expedient, and generally shall have all the powers and be subject to all the liabilities of corporations, as set forth in the forty-sixth chapter of the revised statutes. Rails shall not be laid down in said city

Location, how determined.

Act 1860, c. 457, as amended by act 1861, c. 91.

Authorized to construct when land damages have been settled, &c.

Proviso.

Vote or votes of city or town, assent of corporation shall be filed with clerks, &c.

Powers, &c.

or town without the assent of the municipal officers thereof, respectively. The original location of the route when granted shall be for the term of twenty-five years. The same may be renewed from time to time for a term not exceeding fifty years at any one time, by said municipal officers, upon such terms as they may deem expedient. No such renewal shall be granted prior to two years before the expiration of the location then established. No location shall be granted or renewed, except upon reasonable prior notice to all parties interested. If at the expiration of any of said terms, the use of the streets, roads or highways, occupied by said company's railroad, is granted by the municipal officers of either said city or town, or both, to any other corporation or person, it shall be upon condition that such corporation or person shall purchase of said company all its property of every description in necessary use for the purposes of said railroad upon such terms as may be agreed upon by the parties, or determined by persons selected by them; and if they are unable to agree, the value of the same shall be determined by three disinterested persons, appointed by a judge of the supreme judicial court, on application of either party, and hearing thereon. Said appraisers shall be sworn, give notice of the time and place of their meeting to examine and appraise said property, and shall make to each party a written award; and their services shall be paid in equal proportions by the parties. If the municipal officers of either said city or town, or both, determine, that at the expiration of any of said terms, the use of the streets, roads or highways occupied by said company's railroad, shall be granted to any person or corporation, for the purposes of a horse railroad, on the payment of any sum of money, yearly or in any other manner, said company shall have the preference, and such use shall be granted or renewed to said company, provided it will pay as much therefor as any other corporation or person. Any similar corporation hereinafter incorporated which shall construct its road from Cape Elizabeth, or Westbrook, where the Portland and Forest Avenue Railroad Company have no track, may enter upon and connect with and use the track of the Portland and Forest Avenue Railroad Company

Original location, term of.

—may be renewed.

—when to be renewed.

Notice.

If at expiration of terms, use of streets, &c., is granted any other corporation, &c.

—said corporation shall purchase, &c.

—terms, how determined.

Appraisers, duties of.

—services of, how paid.

Connection of similar corporation.

Compensation, how determined.

As amended by Act 1861.

for such rates of compensation as may be agreed upon, or in case of disagreement of the directors of the two companies, three disinterested persons shall be appointed by a judge of the supreme court, on application of either party, and a hearing thereon shall be had before said commission. Said commissioners shall be sworn, give notice of the time and place of their meeting to determine the matter in dispute, and shall make to each party a written final decision of the points submitted, and their services shall be paid in equal proportions by the parties.

Railroad, how to be used.

City and town may make regulations, &c.

Act 1860.

SEC. 2. Said railroad shall be operated and used by said corporation with horse power only. The municipal officers of said city of Portland and of said town of Westbrook, respectively, shall have power at all times to make all such regulations, as to the rate of speed and removal of snow and ice from the streets, roads and highways by said company at its expense, and mode of use of the track of said railroad within said city or town, as the public convenience and safety require.

Corporation shall keep in repair, streets, &c.

Ibid.

SEC. 3. Said corporation shall keep and maintain in repair, such portion of the streets, town or county roads as shall be occupied by the tracks of its railroad, and shall make all other repairs of said streets or roads, which in the opinion of the municipal officers of said city or town respectively, may be rendered necessary by the occupation of the same by said railroad, and if not repaired upon reasonable notice, such repairs may be made by said city or town respectively, at the expense of said corporation. And said corporation shall be liable for any loss or damage which any person may sustain by reason of any carelessness, neglect or misconduct of its agents or servants.

—liability.

Obstructions in use of roads, &c.

Ibid.

Penalty.

SEC. 4. If any person shall willfully and maliciously obstruct said corporation in the use of its road or tracks, or the passing of the cars or carriages of said corporation thereon, such person and all who shall aid and abet therein, shall be punished by a fine not exceeding two hundred dollars, or may be imprisoned in the county jail for a period not exceeding sixty days.

Capital stock.

Ibid. as amended by act 1863.

Shares.

SEC. 5. The capital stock of said corporation shall not exceed one hundred thousand dollars, to be divided into shares of one hundred dollars and no share shall be issued for less than the par value.

May hold real and personal estate.

Act 1860.

SEC. 6. Said corporation shall have power to purchase and hold such real estate as may be necessary and convenient for the purposes and management of said railroad.

Railroad to be constructed, &c., under direction of city and town.

Ibid.

—alterations in grade.

Proviso.

SEC. 7. Said railroad shall be constructed and maintained in such form and manner, and with such rail, and upon such grade as the municipal officers of said city of Portland, and of said town of Westbrook, respectively, shall from time to time prescribe and direct; and whenever in the judgment of said corporation it shall be necessary to alter the grade of any street, town or county road, occupied by its railroad, said alterations may be made at the sole expense of said corporation; *provided*, the same shall be assented to by the municipal officers of said city and town respectively. If the tracks of said company's railroad cross any other railroad of any kind, in either said city or town, and a dispute arises in any way in regard to the manner of crossing, said municipal officers of the town or city in which said proposed crossing is to be made, shall, upon hearing, decide and determine in writing in what manner the crossing shall be made, which shall be constructed accordingly.

Crossings.

—manner of, how determined.

Streets or roads, in relation to.

Ibid.

SEC. 8. Nothing in this act shall be construed to prevent the proper authorities of said city or town respectively from entering upon and taking up any of the streets, town or county roads occupied by said railroad, for any purpose for which they may now lawfully take up the same.

Act, acceptance of, &c.

Ibid.

SEC. 9. This act shall be void unless the same shall be accepted by said corporation, and ten per cent. of the capital stock thereof, be paid within five years from its passage.

Bonds, issue of, &c.

Ibid.

SEC. 10. Said corporation is hereby authorized to issue bonds for the purpose of constructing its railroad, or for money which it may borrow for any purpose sanctioned by law; but the bonds so issued shall not

exceed the amount of capital stock paid in by the stockholders. Said bonds may be issued in sums not less than one hundred dollars each, payable in not more than twenty years from their date, with interest at the rate of six per cent., payable semi-annually.

—approval of, &c. Ibid.

Sec. 11. Such bonds shall be approved by a majority of the finance committee of said corporation, who shall certify that each of said bonds is properly issued and recorded upon the books of the corporation. All bonds and notes which shall be issued by said corporation shall be binding and collectible in law, notwithstanding such bonds or notes may be negotiated and sold by said corporation or its agents at less than their par value.

—how secured. Ibid.

Sec. 12. Said bonds shall be secured by a conveyance of the corporate company to three trustees, by a suitable instrument of mortgage to secure the payments of said bonds.

Sinking fund. Ibid.

Sec. 13. Said corporation shall pay semi-annually to said trustees, a sum equal to one per cent. on the amount of said bonds for the purpose of creating a sinking fund. Said trustees shall have the care and management of all the moneys, funds and securities belonging to said sinking fund and they shall from time to time, at their discretion, invest the moneys on hand securely, and so that the same shall be productive; and the same may be invested in the bonds of said corporation, secured as aforesaid, or loaned on interest to any county, city or town, or any bank in this State, or the same may be loaned on interest, well secured by a first mortgage of real estate to an amount not exceeding one half the value thereof, or by pledge of the scrip or stock of any of the New England States, or of any city, county or town as aforesaid, and the said fund with the accruing interest shall constitute a sinking fund for the payment and redemption of said bonds.

—trustees to have management of, &c.

Certain acts made applicable to bonds, &c. Ibid.

Sec. 14. The provisions of the fifty-third section of the fifty-first chapter of the Revised Statutes, and of the nine sections of said chapter next following, are hereby made applicable to said bonds and to said mortgage made to secure the same, but said corporation shall not be subject

to the other general provisions of law relating to railroads.

SEC. 15. This act shall take effect when approved by the governor.

8.

ACT ADDITIONAL TO CHARTER OF PORTLAND AND FOREST AVENUE RAILROAD COMPANY.

Railroad may be extended, &c.

Act 1865, c. 509.

Rights, privileges, &c.

Ibid.

SEC. 1. The Portland and Forest Avenue Railroad Company is hereby authorized to extend its railroad over either or both of the bridges which connect the city of Portland with Cape Elizabeth, and to construct and maintain the same in said town, with all the rights and privileges, and subject to all the conditions specified in the act to which this is additional, upon condition that said corporation shall locate and build so much of said road as lies within the limits of the town of Cape Elizabeth, within two years after the passage of this act.

Ibid. as amended by Act, 1866.

SEC. 2. Section one of said act is hereby amended so as to require the assent of the directors only, where that of the corporation is required.

Capital stock increased to $300,000.

Ibid. as amended by act, 1866.

SEC. 3. The capital stock of said corporation is hereby increased to the sum of three hundred thousand dollars.

Dummy engines, use of, authorized, &c.

SEC. 4. Said corporation is hereby authorized to operate its road in either or both of said towns of Westbrook and Cape Elizabeth, or in said city of Portland, with dummy engines, with the consent of the municipal officers thereof.

Corporate name changed.

SEC. 5. The title of said corporation is hereby amended by striking out the words "and Forest Avenue."

GENERAL RAILROAD ENACTMENTS.

City may sell interest in or reorganize P. & O. Railroad, or P. & R. Railroad Co.

1877, c. 382.

9. The city council of Portland is authorized to sell any or all the interests of the city of Portland in the stocks, bonds, obligations or mortgages of any railroad corporation, now held by the city, on such terms as said council may determine, and is authorized to unite upon such terms as said council may approve in any plan or plans for reorganizing the Portland and Ogdensburg railroad company, or the Portland and Rochester railroad company, or for making available the interests of the

city in the stock, bonds, obligations or mortgages of either of said corporations, provided, nothing herein contained shall authorize incurring any executory obligation or liability, direct or indirect, contingent or absolute, in behalf of said city.

Any stockholder in a railroad company meeting may call for a stock vote. 1872, c. 28.

10. Any stockholder, or representative of any stockholder, in any railroad company, shall have power to call for a stock vote of such company at any meeting of the stockholders of such company, on any question that may be legally before such meeting, anything in the charter or by-laws of such company to the contrary notwithstanding.

Towns may aid in constructing railroads. R. S., 1871, c. 51, § 80. 1880, c. 134.

11. Any city or town, by a two-thirds vote, at any legal meeting called for the purpose, may raise by tax or loan, from time to time or all at once, a sum of money not exceeding in all five per cent. on its regular valuation for the time being, and appropriate it to aid in the construction of railroads, in such manner as they deem proper, and for such purpose may make contracts with any person or railroad corporation. At such meetings the legal voters shall vote by ballot, those in favor of the proposition voting Yes, and those opposed, voting No. The ballots cast shall be sorted, counted and declared in open town meeting, and recorded, and the clerk shall make return thereof to the municipal officers, who shall examine such return, and if two-thirds of the ballots cast are in favor of the proposition, said officers shall forthwith proceed to carry the same into effect.

Towns may erect gates at railway crossings. 1874, c. 189. 1881, c. 48.

12. When the municipal officers of a town deem it necessary, for public safety, that gates should be erected across a way where it is crossed by a railroad, and that a person should be appointed to open and close them, they may, in writing, request it to be done; and in case of neglect or refusal, they may apply to the county commissioners to decide upon its reasonableness, who, after notice and hearing, are to decide. When they decide that such a request is reasonable, or that a flagman is necessary for the public safety, at said crossing, they may order one to be stationed there upon said application, instead of gates, and the corporation is to comply with it and pay the costs; when they decide otherwise, the costs

are to be paid by the applicants. This act shall apply to any application for gates now pending before any board of county commissioners.

Taxation of railroads, buildings, &c. 1881, c. 90, § 1.

13. The buildings of every railroad corporation or association, whether within or without the located right of way, and its lands and fixtures outside of its located right of way, shall be subject to taxation by the several cities and towns in which such buildings, land and fixtures may be situated, as other property is taxed therein.

Excise tax to State Treasurer. Ibid. § 2.

14. Every corporation, person or association, operating any railroad in this State, shall pay to the State treasurer, for the use of the State, an annual excise tax, for the privilege of exercising its franchises in this State, which, with the tax provided for in section one, shall be in lieu of all taxes upon such railroad, its property and stock. There shall be apportioned and paid by the State from the taxes received under the provisions of this act, to the several cities and towns, in which on the first day of April in each year, is held railroad stock hereby exempted from other taxation, such amount equal to one per centum on the value of such stock on that day, as determined by the governor and council; provided however that the total amount thus apportioned on account of any railroad shall not exceed the sum received by the State as tax on account of such railroad.

Tax, how ascertained. Ibid. § 3.

15. The amount of the tax shall be ascertained as follows: the amount of the gross transportation receipts as returned to the railroad commissioners for the year ending on the thirtieth day of September next preceding the levying of such tax, shall be divided by the number of miles of railroad operated to ascertain the average gross receipts per mile; when such average receipts per mile shall not exceed twenty-two hundred and fifty dollars, the tax shall be equal to one-quarter of one per centum of the gross transportation receipts; when the average receipts per mile exceed twenty-two hundred and fifty dollars and do not exceed three thousand dollars, the tax shall be equal to one-half of one per centum of the gross receipts; and so on increasing the rate of the tax one-quarter of one per centum for each additional seven hundred and fifty dollars of average gross receipts

per mile or fractional part thereof, provided, the rate shall in no event exceed three and one-quarter per centum. When a railroad lies partly within and partly without this State, or is operated as a part of a line or system extending beyond this State, the tax shall b equal to the same proportion of the gross receipts in this State, as herein provided, and its amount determined as follows: the gross transportation receipts of such railroad, line or system, as the case may be, over its whole extent, within and without the State, shall be divided by the total number of miles operated to obtain the average gross receipts per mile, and the gross receipts in this State shall be taken to be the average gross receipts per mile, multiplied by the number of miles operated within this State.

Governor and council to determine amount of such tax.
Ibid. § 4.

16. The governor and council, on or before the first day of April in each year, shall determine the amount of such tax, and report the same to the State treasurer, who shall forthwith give notice thereof to the corporation, person or association, upon which the tax is levied.

When payable, &c.
Ibid. § 5.

17. Said tax shall be due and payable, one-half thereof on the first day of July next after the levy is made, and the other half on the first day of October following. If any party fails to pay the tax, as herein required, the State treasurer may proceed to collect the same, with interest, at the rate of ten per cent. per annum, by an action of debt in the name of the State. Said tax shall be a lien on the railroad operated, and take precedence of all other liens and incumbrances.

Applications and proceedings for abatement.
Ibid. § 6.

18. Any corporation, person or association aggrieved by the action of the governor and council in determining the tax through error or mistake in calculating the same, may apply for an abatement of any such excessive tax within the year for which such tax is assessed, and if, upon re-hearing and re-examination, the tax appears to be excessive through such error or mistake, the governor and council may thereupon abate such excess, and the amount so abated shall be deducted from any tax due and unpaid, upon the railroad upon which the excessive tax was assessed; or, if there is no such unpaid tax, the governor shall draw his warrant for the abatement, to be

paid from any money in the treasury not otherwise appropriated.

Duty of railroad commissioners in some cases. Ibid. § 7.

19. If the returns now required by law, in relation to railroads, shall be found insufficient to furnish the basis upon which the tax is to be levied, it shall be the duty of the railroad commissioners to require such additional facts in the returns as may be found necessary; and, until such returns shall be required, or in default of such returns when required, the governor and council shall act upon the best information they may be able to obtain. The railroad commissioners shall have access to the books of railroad companies, to ascertain if the required returns are correctly made; and any railroad corporation, association, or person operating any railroad in this state, which shall refuse or neglect to make the returns required by law, or to exhibit to the railroad commissioners their books for the purposes aforesaid, or shall make returns which the president, clerk, treasurer, or other person certifying to such return know to be false, shall forfeit a sum not less than one thousand dollars, nor more than ten thousand dollars, to be recovered by indictment, or by an action of debt in any county into which the railroad operated may extend.

Inconsistent acts repealed. Ibid. § 8.

20. All acts and parts of acts inconsistent with this act, are hereby repealed, except as to all taxes heretofore assessed, and this act takes effect when proved.

Railway Co. may construct side tracks to mill or manufacturing establishment. 1872, c. 219.

21. Any railway corporation[6] is hereby authorized to locate, under the direction of the railroad commissioners, construct and maintain branch railroad tracks to any mills or manufacturing establishments now or hereafter erected in any town or township, but not within the limits of any city without the consent of the city council of said city through which the main line of said railroad is or may be constructed, and for that purpose shall have all the powers and rights granted, and be subject to all the duties imposed upon said corporation by its charter.[7]

[6] As to law regulating crossings, see R. S., 1871, c. 51, § 13, *et seq.*; P. & O. C. R. R. Co. *v.* Gt. R. R. Co., 46 Maine, 69; Veazie *v.* Mayo, 49 Maine, 156.

[7] As to right to lay side tracks and use of streets; and as to railroads for private purposes, see Green *v.* Portland, 32 Maine, 431; Dillon on Mun. Corp. § 565, *et seq.*; Bangor, O. & M. R. R. Co. *v.* Smith, 47 Maine, 34; State *v.* Noyes, 47 Maine, 189; State *v.* Kelsey, 58 Maine, 56.

Crossing of a railroad or canal by a railroad. 1872, c. 40. 1877, c. 191.

22. A railroad may be carried over or under a canal or railroad in such manner as not unnecessarily to impede the travel or transportation of them. The corporation making such crossing is liable for damages occasioned by it in an action on the case. Bridges and their abutments, constructed for a crossing of any way, are to be kept in repair by the corporation, or persons or parties running trains on any railroad crossing a highway or town way. The municipal officers of any city or town may give notice in writing to such persons, parties or corporations that a bridge required at such crossing has not been erected, or is out of repair, and not safe and convenient, within the requirements of section forty, chapter eighteen of the revised statutes, or that the crossing of any such highway or town way passing such railroad at grade, within their respective cities or towns, is not made or maintained safe and convenient, as required by section forty aforesaid; and it shall be the duty of such persons, parties or corporations, to erect or repair such bridge, or make such crossing safe and convenient, as aforesaid, within ten days from the service of said notice; and if they neglect so to do, any one of said municipal officers may apply to any justice of the supreme judicial court, in term time or vacation, to compel such persons, parties or corporations to erect or repair such bridge or make such crossing, as aforesaid; and after hearing, such justice or court may make any order thereon the public convenience and safety may require, and compel the respondents to comply therewith by injunctions; or the said municipal officers of any city or town may, at the expiration of ten days from the date of the notice aforesaid, cause necessary repairs to be made, and the expense of making such repairs shall be paid by the persons, parties or corporations whose duty it is to keep such crossing safe and convenient.

Repair of bridges and abutments.

Paupers brought into State by railroad to be removed. 1875, c. 41.

23. Any common carrier that brings into this State any person not having a settlement in the State, shall cause the removal beyond the lines of the State, of any such person, if he falls into distress within a year, which removal said common carriers are hereby authorized to make: *provided*, such person shall be delivered on board

a boat or at a depot of such common carrier, by the overseers or municipal officers requesting such removal; and in default thereof, such common carrier shall be liable in an action of assumpsit for the expense of the support of such person after such default.

When city or town is entitled to a director in a railroad. 1875, c. 35.

24. Whenever any city or town in this State shall in its corporate capacity, hold one-fifth, or more, of the shares in the capital stock of any railroad incorporated by the legislature of this State, any citizen of such city or town, being a freeholder and resident therein, shall be eligible as a director of such railroad company.

Portland authorized to sell its interest in certain railroads. 1877, c. 382.

25. The city council of Portland is authorized to sell any or all the interests of the city of Portland in the stocks, bonds, obligations or mortgages of any railroad corporations, now held by the city, on such terms as said council may determine, and is authorized to unite upon such terms as said council may approve, in any plan or plans for reorganizing the Portland and Ogdensburg Railroad Company, or the Portland and Rochester Railroad Company, or for making available the interests of the city in the stocks, bonds, obligations or mortgages of either of said corporations, *provided*, nothing herein contained shall authorize incurring any executory obligation or liability, direct or indirect, contingent or absolute, in behalf of said city.

Orders and Ordinances.

PORTLAND AND FOREST AVENUE RAILROAD.[8]

Location of tracks.
Order May 26, 1863.
Rev. Ord. 1868.

1. *Ordered*, That the tracks of the Portland and Forest Avenue Railroad Company shall be located in the city of Portland as follows; but upon the express condition to the location, that said railroad company shall, at all times after the rails are laid down, keep in good order and complete repair, at their own expense, that portion of all streets through which the said rails are or may be laid, lying between the rails, and also that portion of the street lying outside of the rails and adjacent thereto, extending one foot and a half from and outside of each rail, throughout the whole length of said railroad in the streets of the city of Portland; and also that the work of laying down the tracks and rails of said road shall be done under the direction and to the satisfaction of the municipal officers, and also the form and kind of rail, to be used shall be satisfactory to said municipal officers and approved by them.

Routes of road.

2. Said location beginning at or near the depot of the Atlantic & St. Lawrence railroad, and thence extending with one track over the following streets: viz: up India street to its junction with Middle, thence from the junction of India and Middle streets, up Middle to the head of Preble street, thence from the head of Preble street over Preble street to Portland street, thence from the junction of Preble and Portland streets over Portland street to its junction with Parris street, thence from the junction of Portland and Parris streets over said Parris street, to its junction with Kennebec street, thence from the junction of Parris and Kennebec streets over said Kenne-

[8] For orders in relation to the West-End Street Railway, see city records, Book 20, p. 356, and for charter of same, see private laws of 1881. For charter of "Portland and Deering" Railroad, see private laws, 1873, c. 394, and 1878, c. 31.

bec street to Green street, thence from the junction of Kennebec and Green streets over Deering's bridge, to the line of Westbrook. And diverging from this route in Congress street near the head of Preble street, and extending therefrom by two tracks over said Congress street to the head of High street, thence from the junction of Congress and High streets with one track over High street to Spring street, thence from the junction of High and Spring streets over Spring street to Clark street, thence from the junction of Spring and Clark streets over Clark street to Pine street, thence from the junction of Clark and Pine streets, over said Pine street to Congress street, thence from the junction of Pine and Congress streets over Congress street to the head of High street, so as to connect with the tracks hereinbefore specified, and extending to the head of Preble street, and thence by one track from the junction of Congress and Preble streets over said Congress street to Atlantic street; also diverging from Congress street in front of the new city building at the head of Exchange street, and extending over said Exchange street to Middle street, with such turnouts as may be necessary for the safe and convenient operation of said road, and for reaching their car houses, as may be approved by the municipal officers.

Turn outs.

3. The tracks of said railroad shall be laid in or near the centre of the streets above named and to such grades as shall be determined by the municipal officers; and the curves around the corners of all streets shall be located by the city engineer under the direction of the municipal officers, with the co-operation of the directors of said railroad company.

Tracks to be laid in or near centre of streets.

Grades and curves.

4. And this location is granted upon the express condition that in the construction of said tracks,

Construction of tracks.

blocks of stone of the alternate length of eighteen and twenty inches, measuring from the rail outward, and otherwise of such quality, form and size as the municipal officers may direct, shall be laid down outside of each rail; and upon the further condition, that said railroad company, shall, at their own expense, pave between their double tracks, wherever double tracks are laid, and also between their rails throughout the whole length of said railroad in the streets of the city; said pavement to be, until otherwise ordered, fair quality round beach paving stone, and to be laid to the satisfaction of the municipal officers; and upon the further condition that whenever there shall be snow or ice in said streets to the depth of six inches or less, said railroad company may remove the same from their tracks, by shovels or by using such kind of snow plough as the street commissioner shall approve of provided they level it off and grade outside of their rails, so as to allow sleighs and other vehicles to pass along said streets and over their rails with safety and convenience. But whenever there is solid snow or ice exceeding the depth of six inches in said streets, then said railroad company shall not be allowed to remove the same from their rails without first obtaining the consent of the street commissioner, approved by the municipal officers, and then only upon condition that they haul it off and grade the streets wherever said snow or ice is so removed, to the satisfaction of the street commissioner. But if their consent for removing said snow or ice is refused, then said railroad company is authorized to use a sufficient number of sleighs, or mount their cars on runners, to convey passengers over their road until the cars can be used on their tracks.

Snow and ice.

And upon the further condition that said railroad company shall faithfully observe and obey the following rules and regulations in using their road, viz:

Rules and regulations.

First. That no car shall be drawn at a greater speed on their road than six miles an hour.

Second. That while the cars are turning the corners from one street to another, the horses shall not be driven faster than a walk.

Third. The cars driven in the same direction shall not approach each other within a distance of three hundred feet, except in case of accident or at stations.

Fourth. That cars running in different directions shall not be allowed to stop abreast each other except at stations.

Fifth. That no car shall be allowed to stop on a cross walk nor in front of an intersecting street, except to avoid collisions or prevent danger to persons in the street.

Sixth. That in case the conductor of any car is required to stop at the intersection of two streets to receive or land passengers, the car shall be so stopped as to leave the rear platform slightly over the last crossing.

Seventh. That the conductor and driver of each car shall keep a vigilant watch for all teams, carriages, persons on foot, and especially for children, and upon the least appearance of danger to such teams, carriages, persons or children, the car shall be stopped in the shortest time possible.

Eighth. That the conductors do not allow ladies or children to enter or leave the cars while in motion.

Ninth. That no salt or other article shall be used in removing snow or ice from their tracks, which may prove injurious to sleighs or other vehicles crossing them, without the consent of the municipal officers.

Tenth. That a printed copy of these rules and regulations shall be put up and kept in a conspicuous place inside of every car used on their road.

And also upon the further condition that said railroad company shall accept the location hereinbefore specificd, and agree to the several provisions, conditions and regulations connected with the same, within one month from March 1, 1863, and said company shall file in the office of the city clerk, a duly certified copy of the vote agreeing to this location, with its conditions and regulations, within said one month, and make and complete, and put in running order said railroad in two years from said date, otherwise such portion as is not then made shall be null and void.

And also upon the further condition that said railroad company shall comply with and obey any and all other rules, regulations, orders, ordinances, or requirements which have been adopted, or may be adopted at any time hereafter by the municipal officers of Portland in relation to said railroad, or to the streets through which the tracks thereof are laid, not inconsistent with the rights herein granted.

And upon the further condition that any similar corporation hereafter incorporated, which shall construct its railroad in any of the streets of the city of Portland, where the Portland and Forest Avenue railroad company have no track, may enter upon and connect with and use the track of said Portland and Forest Avenue railroad company for such rates of compensation as may be mutually agreed upon, and in case of disagreement of the directors of said companies, three disinterested persons shall be appointed by a judge of the Supreme Court, upon the applica- of either party and due notice to the other, who shall upon hearing, fix said rates of compensation and determine all matters in dispute between said compa-

nies, and the services of said commissioners shall be paid in equal proportions by said companies.

And it is expressly understood that the municipal officers reserve all the rights and powers granted them by the second, third, and seventh sections of the act incorporating said company; and that none of said rights or powers so granted shall be deemed to be in any way waived, limited or qualified by anything contained in this order.

5. *Ordered*, That the Portland and Forest Avenue Railroad Company be, and they are hereby authorized to extend the location of their railroad from their present terminus on Clark street, over and upon Spring street to Bowdoin street, upon the same terms and conditions, and with the same restrictions and limitations as are now granted by the terms of the original location of said road.

Additional location.

Order, Dec. 7, 1863.

6. Any person wilfully placing an obstruction of any kind upon the rails of the Portland and Forest Avenue railroad, in the streets of this city, shall be punished by fine not exceeding twenty dollars.

Obstructions.

Ord. Sept. 5, 1864.

NOTE.—The conditions of acceptance by the company, were complied with by the properly attested papers received and placed on file at city clerk's office, March 23, and April 24, 1863.

AGREEMENT OF CITY OF PORTLAND WITH ATLANTIC AND ST. LAWRENCE RAILROAD COMPANY OF OCTOBER 31, 1868.

Agreement entered into on the thirty-first day of October, 1868, between the city of Portland and the Atlantic and St. Lawrence Railroad Company under authority of an act of the Legislature of Maine, passed March 3, 1868, entitled "An Act making further provisions respecting the loans of credit heretofore made by the City of Portland to the Atlantic and St. Lawrence Railroad Company." Whereas the city, heretofore, under the several acts of August 1, 1848, and July 27, 1850, issued and delivered its bonds to said Company, which were negotiated for the use of the Company, in aid of the construction and equipment of its Railroad, and were issued and dated as follows, namely:

Under act of Aug. 1, 1848.

On the first day of December, 1848,	$200,000
On the first day of May, 1849,	100,000
On the first day of August, 1849,	100,000
On the first day of November, 1849,	75,000
On the first day of February, 1850,	200,000
On the first day of July, 1850,	200,000
On the first day of November, 1850,	75,000
On the first day of January, 1851,	50,000
In all, - - - -	$1,000,000

And under the act of 1850, on the first day of February, 1851, in all, $500,000; all of which bonds were payable in twenty years from their respective dates, and are now outstanding; And the railroad company, at the several dates of the aforesaid issues, gave to the city, as required by law, its several obligations, under the seal of the company and signatures of the directors, for the same several amounts, conditioned in substance, that the company would pay

the interest and principal of all said bonds, as the same should become payable and mature and would save and hold the city harmless on account of the issue of the same; And, whereas, the railroad company, afterwards, as required by the act of 1850, on the third day of February, 1851, executed and delivered to the city a mortgage of all its railroad property and franchise, for security of performance of all the several obligations so given by the company to the city and for the enforcement of the lien given by law to the city upon the said railroad property and franchise, and afterwards on the third day of April, 1853, in pursuance of a covenant in said mortgage executed and delivered to the city another mortgage on the same railroad property and franchise as then existing for further assurance and additional security for performance of the same conditions; And whereas, it was further provided by said acts of 1848 and 1850 that sinking funds should be established for the redemption of the bonds so issued by the city, which sinking funds were in fact so established, and had accumulated, on the 31st day of July last and to the sum of $455,290.73, for the fund under the act of 1848, and to the sum of $204,806.80, under the act of 1850, and it has now become evident, that the said funds will not, nor will either of them, at the maturity of the city bonds aforesaid, be of sufficient amount to redeem in full the city debts, to which the same are applicable, but will amount severally, to very nearly one half of the respective debts; And whereas, the railroad company has represented to the city, that it will be unable to fulfil its obligations so given to the city by paying the principal of the city bonds aforesaid at maturity beyond the amount that the respective sinking funds will supply therefor, and it appears that the city will be obliged to pay the balance of said bonds, over and

above the amount applied from the sinking funds towards redemption of the same, and will thereupon become entitled to demand from the company the immediate reimbursement of such balance and in case of failure to make such reimbursement, will be entitled to pursue and enforce all its remedies, under the said acts of 1848 and 1850, for such default, and the railroad company in view of the premises, has requested the city to grant to it and its assigns, an extension of the company's several obligations aforesaid, and an extension of the mortgage given for security of the same, for all the amount of the principal of the bonds, which the city will be obliged to pay; and the parties have united in procuring the enactment of the aforesaid act of March 3, 1868, to provide the requisite legal authority and power for such arrangements as require to be made by the city, in this behalf; And whereas, it is contemplated by the parties to this agreement that the commissioners of the sinking fund established under the acts of 1848 and 1850, at the several times of the maturity of the city debts aforesaid, will be authorized to apply and will apply out of such respective funds portions of the same, towards the redemption of the city debts so maturing corresponding to the proportions which the whole respective funds, as then existing, shall bear to the whole of the respective city debts to be redeemed, it being now estimated that the said proportion will be one-half part, very nearly, and the parties have agreed that they will unite, if necessary, in such proceedings as may be suitable and requisite to give the commissioners full authority to apply the existing sinking funds in such proportional parts. Now, in consideration of the premises, in pursuance of the representation and request so made by the railroad company, and under the authority of the acts of March 3, 1868, subject to all the limitations,

conditions and restrictions of said act, the city hereby agrees that it will grant an extension of the balance aforesaid of the company's obligations hereinbefore mentioned, and an extension of the mortgage given for security of performance thereof; which extension shall be for the term of eighteen years from the first day of January, 1870, for all the balance of the obligations so given by the company to the city under the act of 1848, and for the term of eighteen years from the first day of February, 1871, for all the balance of the obligations so given under the act of 1850. And this agreement for extension shall be subject to all the arrangements, conditions and stipulations hereinafter provided and expressed, as follows, that is to say.

1. The railroad company engages, that notwithstanding anything contained in this agreement, it will continue to provide for and pay the interest which shall accrue and be payable in all the now outstanding bonds of the city, issued under the acts of 1848 and 1850, until the maturity of the principal of the same, and that it will continue to make all such contributions, as it is by law required to make, to the sinking funds established under those acts; and in case of default in either of these engagements, the city is to be at liberty to terminate the extension hereby granted, and may resort to all the legal remedies for such default, provided and existing under the acts of 1848 and 1850.

2. The railroad company further engages, that it will, semi-annually, provide for and pay to the city, or deposit to the use of the city, at such place as the city treasurer shall appoint, the accruing interest upon all the unsatisfied balance of the company obligations given to the city as aforesaid, so long as any such balance shall remain undischarged: and that it will make and pay all the contributions required by

the act of March 3, 1868, to be made to the new sinking fund established by that act; and in case of default in either of these engagements, the city shall be at liberty to terminate the extension hereby granted, and may resort to its legal remedies provided and existing under the acts of 1848 and 1850 for enforcement of the company's obligations aforesaid.

3. And inasmuch as it is understood by the parties, that the city will be obliged to issue its new bonds to an amount equal to the unsatisfied balances of the company's obligations aforesaid, for the purpose of raising money to discharge a corresponding balance of its prior bonds issued under the acts of 1848 and 1850, the railroad company in consideration of the extension hereinbefore agreed to be given, engages that it will pay to the city all the costs of preparing and issuing such new bonds, and of negotiating the same, and will make up to the city any loss that may be sustained by discount in negotiating the same; and the city engages that it will offer to the railroad company the option of procuring the negotiation of the same at seasonable times and at the most favorable rates to be obtained in the market.

4. All the sums which shall be applied by the commissioners of the sinking fund, under the acts of 1848 and 1850, towards the redemption of the bonds issued under these acts, shall be a discharge of so much of the railroad company's obligations aforesaid, and shall be appropriately indorsed thereon.

5. And the parties to this instrument further agree, that their intention is to provide for the ultimate performance and payment of all the balances of the company's obligations aforesaid in the manner which shall be least burdensome and most advantageous to the parties, but without pecuniary loss or detriment to the city, in any event, and without diminishing or impairing any security held by the city; and that in

case of any want of authority in the commissioners of the sinking funds under the acts of 1848 aud 1850, to apply these funds in the names now contemplated and expressed in this instrument, or, in case of any other legal difficulty or impediment in effecting the object or intent of the parties, by the particular arrangements, now made therefor, they will negotiate further thereon, and will use all their reasonable and lawful endeavors, and enter into all such further proceedings and agreements as may be necessary and deemed adequate to accomplish the true intent, meaning and object of this agreement as hereinbefore declared.

In witness whereof this agreement is subscribed in behalf of the city, by Jacob McLellan, mayor, duly authorized by a vote of the city council passed on the 17th day of September, 1868, and in behalf of the railroad company by St. John Smith, president, duly authorized by a vote of the directors passed on the twenty-second day of October, 1868,—and the said parties have hereto affixed their respective seals this thirty-first day of October in the year of our Lord one thousand eight hundred and sixty-eight.

Signed, sealed and delivered.

Rebuilding of the Burned District.

AFTER THE GREAT FIRE OF 1866.

Statutes.

1. Bonds of city; amount and when payable.
2. Commissioners to negotiate loan.
3. Commissioners may loan on mortgages of real estate.
4. Interest upon loans.
5. Sinking fund. Moneys on hand, how to be invested.
6. Vacancies in board of commissioners, how filled. Removals, how made. Succession in management of property.
7. Duties of city treasurer.
8. Accounts, records and reports, how and when made.
9. Acceptance of act by citizens.
10. Bonds may be cancelled.

ORDER OF CITY COUNCIL.

1. Relating to bonds.

Statutes.

Bonds of city, amount and when payable. Acts, 1867, chapters 373, 390.

1. For the purpose of aiding in rebuilding said city, so much of which was recently destroyed by fire, the city of Portland is authorized to issue its bonds to an amount not exceeding two millions of dollars, payable in not exceeding twenty years from their date, and bearing an interest at the rate of six per centum per annum, payable at the option of the commissioners in any place in the United States, or payable in England in sterling.

Commissioners to negotiate loan.

2. A board of four commissioners, citizens of said city, shall be appointed by the mayor and aldermen of said city. Each of said commissioners shall give bond to the city, in such sum as the mayor and aldermen shall determine, conditioned for the faithful discharge of his duty as commissioner. They shall receive such compensation for their services as shall be established by the mayor and aldermen. The bonds issued by virtue hereof, shall be

Their compensation and duties.

negotiated by said commissioners, under the direction of the mayor, and delivered by the city treasurer upon the warrant of the commissioners. Act 1867, c. 373.

3. The said commissioners, under such general regulations as shall be established from time to time by the mayor and aldermen of said city, shall loan the proceeds of said bonds in a safe and judicious manner, upon mortgages of real estate, for the purpose of building dwelling-houses, stores and buildings, in said city of Portland. May loan upon mortgages of real estate. Acts, 1867, chapters 373, 390.

4. Upon all loans made by said commissioners under this act, they are hereby authorized to charge, take or reserve, a rate of interest not exceeding seven and three-tenths per centum per annum. Interest upon loans. Act 1867, c. 373.

5. For the purpose of the payment of the bonds issued under this act, a sinking fund shall be established, to be under the direction of said commissioners. All payments of loans, all receipts of interest above interest paid, after payment of necessary expenses, and all other moneys received, excepting from the sale of said bonds, shall be placed to the credit of said sinking fund. The commissioners shall from time to time at their discretion, invest the moneys on hand, securely, so that they shall be productive; and the same may be loaned on mortgages of real estate, as provided in section three of this act, or invested in the bonds issued under this act, or any other bonds of the city of Portland, or of the State of Maine, or of the United States, which securities shall be held for the increase of the sinking fund. And the commissioners may, from time to time, sell or transfer any of said securities. Sinking fund. Moneys to be invested in securities, how held and conveyed. Ibid.

6. Vacancies in the board of commissioners shall be filled by the remaining or surviving commissioners. Said commissioners, or any of them, shall not be removable from office, except by the supreme judicial court, in their discretion, upon complaint of the mayor and aldermen of said city, which court is hereby empowered to adjudicate upon said complaint according to the course of proceedings in equity, and to pass all proper decrees touching the same. Vacancies thus created shall be filled as above Vacancies, how filled. Removals, how made. Succession in management of property. Ibid.

provided; and as often as any new commissioner or commissioners shall be appointed, the management of the property then held shall rest by operation of law in such new commissioner or commissioners, jointly with the prior commissioners.

Duties of city treasurer. Ibid.

7. The city treasurer shall have the care and custody of all moneys received from the sale of bonds, or from any other sources, and shall be responsible on his official bond to the city for the safe keeping of the funds thus entrusted to him. He shall also have the care and custody of, and be responsible for, all the securities of the sinking fund. He shall pay out and deliver any of said moneys or securities only upon the warrant of the commissioners.

Accounts, records and reports, how and when made. Ibid.

8. The said commissioners shall keep a true record of all their proceedings, and an account of all sums received from the sale of bonds or from any other sources, and the payments made of the same. They shall, annually, in the month of January, report to the city council their proceedings for the year. And their records and accounts and the accounts and securities of the sinking fund, shall at all times be open to inspection by the finance committee of the city council.

Acceptance of Act by citizens.

9. This act[1] shall not take effect unless accepted by the legal voters of said city, at ward meetings duly called, and at least two-thirds of the votes cast at said meetings, shall be necessary for the acceptance of the act.

Bonds may be cancelled. Act of 1873, c. 256.

10. The commissioners of the Building Loan of the city of Portland, with the consent of the city council of Portland, are authorized from time to time to cancel as paid, any or all bonds issued by the city of Portland, in pursuance of the acts authorizing such building loan, whenever any of such bonds are held or purchased by such commissioners.

[1] The act was accepted March 15, 1867, and March 20, 1867, Woodbury Davis, Eben Steele, Ambrose K. Shurtleff and Weston R. Millikin were appointed commissioners.

Order.

1. *Ordered*, That in accordance with the act of the legislature of this State, approved February 28, 1867, entitled "An act to enable the city of Portland to aid in rebuilding said city," the treasurer be, and he is hereby authorized to issue the bonds of the city in sums of not less than one thousand dollars each, from time to time, as may be required by the commissioners appointed under said act, to an amount not exceeding the sum authorized by said act, at the rate of interest of six per cent. per annum, payable in twenty years from this date, both principal and interest payable in lawful money of the United States of America, and at the option of the said commissioners at any place within the United States. Each bond aforesaid shall be signed by the treasurer, countersigned by the mayor, attested by the city clerk with the seal of the city, and also countersigned by one or more of the commissioners under said act; but the coupons shall be signed by the treasurer only.

Relating to bonds.
Rev. Ord. 1868.

Riots.[1]

Statutes.

1. Unlawful assembly and riot.
2. One person may be convicted, without the others.

SUPPRESSION OF MOBS BY OFFICERS AND ARMED FORCE.

3. Duty of magistrates and officers to disperse unlawful assembly of twelve or more; refusal to assist them, or to disperse when ordered; neglect of duty by magistrates and officers.
4. When rioters refuse to disperse, magistrates and officers to call out armed force.
5. If any person is killed or wounded, magistrates and officers held guiltless; liability of the persons unlawfully assembled or refusing to assist in like case.

PUNISHMENT AND REMEDY FOR INJURIES BY MOBS.

6. Punishment and civil remedy for pulling down houses or premeditated personal injuries.
7. Extent of liability of towns for injury to private property by mobs, and their remedy against the wrong-doers.

Ordinance.

1. In case of riot, duty of city marshal, &c.

Statutes.

Unlawful assembly and riot.

R. S., 1871, c. 123, § 2.

1. If three or more persons assemble in a violent or tumultuous manner to do an unlawful act, or, being together, make any attempt or motion towards doing a lawful or unlawful act in a violent, unlawful, or tumultuous manner, to the terror or disturbance of others, they shall be deemed guilty of an unlawful assembly; if they commit such acts in the manner and with the effect aforesaid, they shall be deemed guilty of a riot, and be punished in either case, by imprisonment less than one year, and by a fine not exceeding five hundred dollars;

[1] State v. Snow, 18 Maine, 346; State v. Straw, 33 Maine, 554; State v. Boies, 34 Maine, 235.

and in case of a riot, each offender shall also suffer such punishment as he would be liable to if he had committed such act alone.

2. Any person engaged in an unlawful assembly or riot, may be indicted and convicted thereof alone, if it is alleged in the indictment and proved at the trial that three or more were engaged therein, and if known, they must be named, but if unknown, that fact must be alleged.

One person may be convicted, without the others. Ibid. § 3.

SUPPRESSION OF MOBS BY OFFICERS AND ARMED FORCE.

3. When twelve or more persons, any of them armed with clubs or dangerous weapons, or thirty or more, armed or unarmed, are unlawfully, riotously, or tumultuously assembled in any town, it shall be the duty of each of the municipal officers, constable, and justices of the peace thereof, and of the sheriff of the county and his deputies, to go among the persons so assembled, or as near to them as they can safely go, and in the name of the State, command them immediately and peaceably to disperse; and if they do not obey, such magistrates and officers shall command the assistance of all persons present in arresting and securing the persons so unlawfully assembled; and every person refusing to disperse, or to assist as aforesaid, shall be deemed one of such unlawful assembly, and punished by a fine not exceeding five hundred dollars, and imprisonment less than one year; and each such magistrate or other officer, having notice of such unlawful assembly, in his town, and refusing or neglecting to do his duty in relation thereto as aforesaid, shall be punished by a fine not exceeding three hundred dollars.

Duty of magistrate and officers to disperse unlawful assembly, &c. Ibid. § 4.

4. When persons so riotously or unlawfully assembled, neglect or refuse, on command as aforesaid, to disperse without unnecessary delay, any two of the magistrates, or officers aforesaid, may require the aid of a sufficient number of persons in arms or otherwise, and proceed in such manner as they judge expedient, to suppress such riotous assembly, and arrest and secure the persons composing it; and when an armed force is thus called out,

When rioters refuse to disperse, &c. Ibid. § 5.

they shall obey the orders for suppressing such assembly and arresting and securing the persons composing it, which they receive from the governor, any judge of a court of record, the sheriff of the county, or any two of the magistrates or officers mentioned in section four.

If any person is killed or wounded, officers held guiltless, &c. Ibid. § 6.

5. If, in the efforts made as aforesaid to suppress such assembly, and to arrest and secure the persons composing it who refuse to disperse, though the number remaining is less than twelve, any such persons, or any persons present as spectators or otherwise, are killed or wounded, said magistrates, officers, and persons acting with them by their order, shall be held guiltless and justified in law; if any of said magistrates, officers, or persons thus acting with them, are killed or wounded, all persons so unlawfully or riotously assembled, and all other persons who refused when required, to aid such magistrates and officers, shall be held answerable therefor.

PUNISHMENT[2] AND REMEDY FOR INJURIES BY MOBS.

Punishment for pulling down houses or premeditated personal injuries. Ibid. § 7.

6. If any persons, thus unlawfully and riotously assembled, pull down, or begin to pull down, or destroy any dwelling-house, building, ship or vessel; or perpetrate any premeditated injury, not a felony, on any person, each shall be punished by imprisonment not more than five years, or by a fine not exceeding five hundred dollars; and shall also be answerable to any person injured, in an action of trespass to the full amount of damages by him sustained.

Liability of towns for injury by mobs, &c. Ibid. § 8.

7. When the injury to any property as described in section seven [section above] amounts to fifty dollars or more, the town where such property is situated shall indemnify the owner thereof for three-fourths of the value of such injury, to be recovered in an action on the case, if he uses all reasonable diligence to prevent such injuries, and to procure the conviction of the offenders; and the town paying such sum may recover it in an action on the case against the persons doing the injury.

[2] For Statutes forbidding prize fights, game cock fights, &c., see acts 1873, c. 146.

Ordinance.

1. In case of any riot, or unauthorized and tumultuous collection of persons, within the limits of the city, it shall be the duty of the city marshal, deputy marshals, policemen, watchmen and constables of the city, as soon as they are informed of the same, to repair immediately to the place where said riot or tumult may be, and report themselves to the mayor, or in his absence, to the city marshal, and they shall use all the power and authority vested in them by the ordinances of the city, or laws of this State, quickly to separate and disperse said mob or tumultuous collection of persons, or to arrest and bring them to trial for said offense, as the case may require, to protect the persons and property of the citizens from injury, and to do all other matters and things which may be commanded them by the mayor or city marshal.

In case of riot, marshal and officers to repair to place of riot.

Rev. Ord., 1868.

To use power and authority to disperse mob.

Sale of Second-hand Articles, Junk, &c.

Statutes.

1. Mayor, &c., may license junk shops, &c.
2. Licenses to designate place of business.
3. Liability of persons not licensed. Penalty.
4. Any city may establish ordanances regulating.

Mayor and aldermen authorized to grant licenses to persons for certain purposes.

Act, 1861, chap. 63.

1. The mayor and aldermen of the city of Portland, may license such persons as they deem suitable to be keepers of shops for the purchase, sale, or barter of junk, old metals, bones, rags, or of any second hand articles, and to be dealers therein.

—to designate place of business, &c.

Ibid.

2. The licenses to such persons shall designate the place where the business is to be carried on, and the persons licensed shall be subject to such conditions, restrictions and regulations as may be prescribed by the mayor and aldermen of said city, and the license shall continue in force for one year, unless sooner revoked.

Persons not licensed, liable.

3. No person, unless licensed as aforesaid, shall keep any shop or place for the purchase, sale or barter of the articles aforesaid, or for the storage thereof, or be a dealer therein; nor shall any person so licensed, keep such shop, or be a dealer in said articles, in any other place or manner than as is designated in his license or after notice to him that said license has been revoked, under the penalty of twenty dollars for each offence, to be recovered by complaint in the municipal court for said city or by indictment.

—license revoked, liable.

Penalty. —how recovered.

Ibid.

City may establish ordinances regulating. 1881, c. 11.

4. Any city may establish ordinances regulating the purchase and sale of old junk, metals and other articles usually bought by old junk dealers, and may therein prescribe such conditions to be observed by buyers and sellers as the city officers may deem best, to prevent or detect the sale or purchase of stolen goods; and suitable penalties may be prescribed in such ordinances for any violation thereof.

Schools.

Statutes.

1. Towns may determine number and limits of school districts.
2. Towns may choose agents; vacancies how filled.
3. School money shall be paid only on written order of town officers.
4. School money in Portland, how paid.
5. Towns may abolish districts. Property to be appraised. Powers to continue for certain purposes.
6. Towns to raise not less than eighty cents per inhabitant.
7. Towns may provide school books.
8. Apportionment of school money, among the smaller districts.
9. Towns may choose committee or supervisor. Who may appoint one of their number to act. Penalty.
10. Compulsory attendance of children twelve weeks in a year.
11. Mill tax for supporting schools.
12. Mill tax, how assessed and collected.
13. Mill tax, distribution of.
14. Mill tax, unexpended portion, to be added to fund.
15. Towns to make by-laws concerning truants, and certain children not attending school, to be approved by judge of supreme court. Penalty for breach thereof.
16. Shall appoint persons to make complaints of violation of by-laws.
17. Truant children may be placed in suitable institutions.

SCHOOL COMMITTEE OF PORTLAND.

18. School committee of Portland, how constituted.
19. School committee of Portland, to reside in city irrespective of wards.
20. School committee of Portland, vacancy, how filled.
21. School committee of Portland, powers and duties of.
22. School committee of Portland, powers not specially conferred, vested in city council.
23. School committee of Portland, certain acts regarding repealed.

GENERAL POWERS AND DUTIES OF SCHOOL COMMITTEES.

24. School committees to be sworn.
25. Committee when first chosen to arrange terms of office.
26. Their duties.
27. They shall make annual statements.
28. Agents sometimes authorized to employ teachers. District agents may also be authorized.
29. Agent to return lists to school committee.
30. Duty of committee, if agent neglect to act. Committee to return list to assessors.
31. Committee to furnish books if parents or guardians neglect.
32. Compensation of committee or supervisors.
33. Duty of assessors or municipal officers.
34. Duty of State Superintendent in regard to above section.

DUTIES AND QUALIFICATIONS OF INSTRUCTORS.

35. Teachers to keep school register. Not to be paid till register is completed.
36. Teachers to inculcate justice, morality and patriotism.
37. Penalty for disturbing schools.
38. Parents or guardians liable.
39. Defacing school houses. Penalty.
40. Innholders and shopkeepers not to give credit to students.
41. School exercises. Resolve relating to.

Ordinances.

1. Committee to elect and remove teachers, determine their salaries, &c.
2. Salaries to be apportioned so as not to exceed appropriation.
3. Persons not vaccinated, not permitted to attend public schools.
4. Committee may cause scholars to be vaccinated at city expense.

TRUANTS.

5. Children between eight and sixteen required to attend school.
6. Punishment for not attending school.
7. Truant officer to be appointed.
8. What provided as suitable places of punishment.
9. Habitual truants, how punished.
10. Same subject.

SUPERINTENDENT OF BUILDINGS.

11. School buildings, superintendent, appointment of.

12. School buildings, superintendent, duties of.
13. School buildings, superintendent, same subject.
14. School buildings, superintendent, same subject.

NON RESIDENT SCHOLARS.

15. Non resident children to be admitted to schools under same circumstances.

Statutes.

Towns may determine the number and limits of school districts.

1. A town at its annual meeting,[1] or at a meeting called for that purpose, may determine the number and limits of the school districts therein, but they shall not be altered, discontinued or annexed to others, except on the written recommendation of the municipal officers and superintending school committee, accompanied by a statement of facts, and on conditions proper to preserve the rights and obligations of the inhabitants; but when in the judgment of the board consisting of the municipal officers and superintending school committee or supervisor, the number of scholars in any district becomes too few for the profitable expenditure of the money apportioned to said district, said board may suspend the school in said district, and cause the money to be expended, for the benefit of the scholars in said district, in the adjoining district or districts. Said board shall make a record of its decision in relation to the school in said district, sign the same and cause it to be recorded by the town clerk, and such decision shall remain in full force until annulled by vote of the town, or by the action of a subsequent board. Said board may reserve not more than one-half of the money appropriated to such districts, to be expended, in their discretion, for the conveyance of children of such districts to and from school.

School in a district may be suspended.

How part of money may be expended. Act 1880, c. 181.

Towns may choose agents. Vacancies, how filled. R.S., 1871, c. 11, § 4.

2. A town, at its annual meeting, may choose its school agents; and vacancies may be filled as in case of other town officers not chosen by ballot.[2]

School money shall be paid only on written order of town officers on vouchers.

3. No money appropriated to the use and support of public schools under the laws of this state shall be paid from the treasury of any city, town or plantation, except

[1] Webber v. Stover, 62 Maine, 512; Whitmore v. Hogan, 22 Maine, 564.

[2] Dore v. Billings, 26 Maine, 56; Tucker v. Wentworth, 35 Maine, 393; School district v. Deshon, 51 Maine, 454.

upon the written order of the municipal officers thereof: and no order for the payment of such money shall be drawn by the said municipal officers, except upon presentation of a properly avouched bill of items.

Oct. 1877, c. 196. This section does not apply to Portland. See next §.

4. All moneys appropriated for the use and support of public schools in the city of Portland, shall be paid by the treasurer of the city, upon the account being approved by the mayor and committee of accounts for the city of Portland. The provisions of chapter one hundred and ninety-six of the public laws of eighteen hundred and seventy-seven, shall not apply to the city of Portland.

School money in Portland, how paid. Act 1879, c. 131.

5. A town may abolish the school districts therein, and shall thereupon forthwith take possession of all the school-houses, land, apparatus, and other property owned and used for school purposes, which districts might lawfully sell and convey. The property so taken shall be appraised under the direction of the town, and at the next annual assessment thereafter, a tax shall be levied upon the whole town, equal to the whole amount of said appraisal, or such part thereof as the town shall vote, and the remainder of said appraisal, if any there be, shall be levied by tax upon the whole town at the second and third annual assessment thereafter, or at the second alone, as the town shall vote, and there shall be remitted to the tax payers of each district the said appraised value of its property thus taken, in the same proportion annually as the tax therefor shall be levied, or the difference in the value of the property of the several districts may be adjusted in any other manner agreed upon by the parties in interest. Upon the abolition or discontinuance of any district, its corporate powers and liabilities shall continue and remain, so far as may be necessary for the enforcement of its rights and duties.

Towns may abolish school districts. 1875, c. 14. Amending R. S., 1871, c. 11, § 3.

Property appraised.

Tax to be levied for amount of appraisal.

Remitted to district for value of property.

Powers and liabilities of districts to continue for certain purposes.

For duties of districts, see c. 11, of R. S., 1871.

6. Every city, town and plantation shall raise and expend, annually, for the support of schools therein, a sum of money, exclusive of the income of any corporate school fund, or of any grant from the revenue or funds from the state, or of any voluntary donation, devise or bequest, or of any forfeiture accruing to the use of

Towns to raise for school purposes not less than 80 cents per inhabitant. Act 1878, c. 20. Amending R. S., 1871, c. 11, § 5.

Penalty.

schools, not less than eighty cents for each inhabitant, according to the census of the state, by which representatives to the legislature were last apportioned, under penalty of forfeiting not less than twice nor more than four times the amount of its deficiency; and no town which neglects to raise the amount of money required to be raised by this section, shall, during the year in which such neglect occurs, receive any part of the state school fund required to be apportioned to the several towns by the treasurer of state.

Towns neglecting not entitled to state school fund.

Towns may provide school books.
R. S., 1871, c. 11, § 6.

7. Towns, cities and plantations, may raise money to provide school books for the use of the pupils in their public schools, at the expense of said town, city or plantation, or to furnish them at cost to the pupils; and all money raised and appropriated for that purpose shall be assessed in the same manner as other moneys raised for lawful purposes are assessed.

Act 1875, c. 8, amending 1874, c. 166, and R. S., 1871, c. 11, § 5.

Apportionment of school money among the smaller districts in the several towns.

8. The assessors and superintending school committee, or supervisors of towns, cities and plantations, may annually apportion twenty per centum of all money required to be raised by the fifth section of chapter eleven of the revised statutes, and twenty per centum of all money received from the state for schools, except money received under the free high school act, among the districts in the several towns, cities and plantations, in such manner as in their judgment shall give to the smaller districts, as nearly as may be, an equal opportunity of enjoying the benefits of common school education with the larger districts.

Towns to choose committee or supervisor.
R. S., 1871, c. 11, § 10.

See school committee of Portland, *post*.

9. Every town shall choose by ballot at its annual meeting, a superintending school committee of three, unless already done, to hold office as provided in section fifty-three, chapter eleven, R. S., 1871, and shall fill vacancies arising therein at each subsequent annual meeting, or, shall, in the same manner, choose a supervisor of schools, who shall have the power and perform the duties which are now, or may hereafter be required of the committe aforesaid; and his election shall terminate the office of any and all existing members of such committee. The superintending school committee may

appoint one of their number, who shall have all the power, and perform all the duties specified in the fifth and twelfth items of the fifty-fourth section of chapter 11, revised statutes of 1871. Any town failing to elect members of superintending school committee or supervisor as required by law shall forfeit not less than thirty, nor more than two hundred dollars.

S. S. Committee may appoint one of their number to perform certain duties. R. S., 1871, c. 11, § 11.

Penalty for towns failing to choose committees or supervisor. Ibid. § 12.

10. That every parent, guardian, or other person in the State of Maine, having control of any child or children between the ages of nine and fifteen years, shall be required to send such child or children to a public school for a period of at least twelve weeks in each year, unless such child or children are excused from such attendance by the school officers of the town in which such parent or guardian resides, upon its being shown to their satisfaction that the mental or bodily condition of such child or children has been such as to prevent attendance at school or application to study for the period required, and the certificate of a physician shall be deemed sufficient to satisfy said officers; or that such child or children have been taught at a private school or at home in such branches as are usually taught in primary schools; provided, in case a public school shall not be taught for three months in the year within one and one-half miles by the shortest travelled road of the residence of such delinquent, nor within the school district within which such child resides, he shall not be liable to the provisions of this act. In case any parent, guardian, or other person having such control, shall fail to comply with above provision, he shall be liable to a fine not exceeding five dollars and costs of prosecution for such offence, to be recovered in any court competent to try the same, and the magistrate or court to which said fine shall be paid shall pay the same to the treasurer of the town in which the offence was committed, and shall be by him accounted for, the same as money raised for school purposes. Every boy in this State between the ages of nine and fifteen years, who shall neglect or refuse to attend school as required in section one of this act, unless excused by the school officers of the city, town, or plantation in which he resides, on being

Children required to attend public school twelve weeks in a year. Act 1875, c. 24.

Exception. Ibid.

Penalty for non-compliance. Ibid. § 2.

Penalty to boy. Ibid. § 3.

convicted of such offence, shall pay a fine not exceeding five dollars. It shall be the duty of the school committee or town supervisor to enforce these provisions.

Duty of committee to enforce. Ibid. § 4.

11. A tax of one mill per dollar is hereby annually assessed upon all the property in the State according to the valuation thereof, and shall be known as the mill tax for the support of common schools.

Mill tax for support of schools. Act 1872, c. 43.

12. This tax shall be assessed and collected in the same manner as other state taxes, and be paid into the state treasury and designated as the school mill fund.

How assessed and collected. Ibid.

13. The first distribution of this fund shall be made July first, eighteen hundred and seventy-three, and the same month annually thereafter by the state treasurer to the several cities, towns and plantations of the State according to the number of scholars in each city, town or plantation, as the same shall appear from the official return made to the office of the state superintendent of common schools for the preceding year.

Distribution. Ibid.

14. All and every portion of the school mill fund not distributed or expended during the financial year shall at the close of each financial year be added to the permanent school fund.

Any portion unexpended to be added to permanent fund. Ibid.

TRUANTS.[1]

15. Towns may make such by-laws not repugnant to the laws of the State, concerning habitual truants, and children between six and seventeen years of age not attending school, without any regular or lawful occupation, and growing up in ignorance, as are most conducive to their welfare and the good order of society, and may annex a suitable penalty not exceeding twenty dollars for any breach thereof; but said by-laws must be first approved by a judge of the supreme judicial court.

Cities and towns authorized to make laws concerning truants. R. S., 1871, c. 11, § 13.

16. Such towns shall appoint at their annual meeting, one or more persons, who alone shall make complaints for violations of said by-laws to the magistrate having jurisdiction thereof by said by-laws, and execute his judgments.

Persons appointed to make complaint. Ibid. § 14.

[1] Municipal court has jurisdiction over offence of truancy. O'Malia v. Wentworth, 65 Maine, 129.

17. Said magistrate, in place of the fine aforesaid, may order children, proved to be growing up in truancy, and without the benefit of the education provided for them by law, to be placed for such periods of time as he thinks expedient, in the institution of instruction, house of reformation, or other suitable institution provided for the purpose under the authority enforced by section thirteen of chapter eleven of Revised Statutes.

Truant children placed in suitable institutions.
Ibid. § 15.

THE SCHOOL COMMITTEE OF PORTLAND.

18. The school[1] committee of the city of Portland shall consist of the mayor of said city, who shall be, ex-officio, chairman, and of seven other persons to be elected as hereinafter provided.

Private laws 1881, c. 155.
School committee of Portland, how constituted.

19. Members of the school committee shall be residents of the city, and shall be elected at the annual election for municipal officers, by a plurality of the ballots cast by the qualified electors at such election. They shall hold their office for the term of two years from the time they are elected, and shall be divided into classes as follows: three members shall be elected at the municipal election in the year eighteen hundred and eighty-two, to fill the places of those whose terms expire in March in that year, and four members shall be elected at the municipal election in the year eighteen hundred and eighty-three, to fill the places of those whose terms expire in March of that year; and thereafter, at each annual election, such a number of members shall be elected as shall be sufficient to fill the places of those whose terms shall expire in that year.

To be residents of city; not restricted as to wards.
Ibid. § 2.

20. In case of vacancy in said board, the city council shall, in joint convention, elect by ballot, some person to fill the office until the next municipal election, when some person shall be elected to fill the unexpired term. So that representation and election by wards to said board is hereby abolished.

Vacancy, how filled.
Ibid. § 2.

21. The said committee shall have all the power, and perform all the duties in regard to the care and manage-

[1] These provisions take the place of provisions of first two sections of Private Laws of 1875, c. 84. This act of 1881 was passed to abolish the ward system of selecting S. S. Committee.

Powers and duties of school committee of Portland.

ment of the public schools of said city, which are now conferred and imposed upon superintending school committees by the laws of this State, except as otherwise provided in this act. They shall annually, and whenever there is a vacancy, elect a superintendent of schools for the current municipal year, who shall have the care and supervision of said public schools under their direction, and act as secretary of their board; they shall fix his salery at the time of his election, which shall not be increased during the year for which he is elected, except by consent of said city council, and may at any time dismiss him if they deem it proper and expedient. They shall annually, as soon after the organization of their board as practicable, furnish to said city council an estimate in detail of the several sums required during the ensuing municipal year for the support of said public schools, and shall not increase the salaries of the superintendent and teachers, or any other expenditures, beyond the amounts specified therefor in such estimate, except by consent of said city council. No member of the committee shall receive any compensation for his services.

Private laws 1875, c. 84.
Election of a superintendent.
Salary.

Estimates to be furnished city council.

No compensation.

Powers not specially conferred vested in city council.
Ibid.

22. All powers, obligations and duties in regard to said public schools, not conferred and imposed upon said committee by the provisions of this act, shall be and are hereby vested in the city council of said city.

Certain acts repealed.
Ibid.
Same clause in act of 1881.

23. All acts and parts of acts inconsistent with the provisions herein contained, as far as the city of Portland is concerned, are hereby repealed.

GENERAL POWERS AND DUTIES OF SUPERINTENDING SCHOOL COMMITTEES.

School committee to be sworn.
R. S., 1871, c. 11, § 52.

24. Members of superintending school committees and supervisors shall be duly sworn.

School committee when first chosen shall arrange term of office.
Act 1880, c. 171, R. S., 1871, c. 11, § 53.
Vacancies.

25. Superintending school committees, at their first meeting shall designate by lot one of their number to hold office three years, and another two years, and certify such designation to the town clerk, to be by him recorded. The third member shall hold office one year; and each member elected to fill the place of one whose term expires, shall hold office three years. They

shall fill all vacancies in their number until the next annual town meeting. Two members constitute a quorum; but if there is but one in office, he may fill vacancies; provided, however, that if the one thus remaining in office shall decline or neglect to fill the vacancies existing in the board, the municipal officers shall fill said vacancies. The municipal officers shall fill all vacancies arising in the office of supervisor until the next annual election.

DUTIES OF SUPERINTENDING SCHOOL COMMITTEES.

26. Superintending school committees shall perform the following duties:

Duties of Supt. School Com., R. S., 1871, c. 11, § 54.

Appoint time and place for examination of teachers.

First.—They shall appoint suitable times and places for the examination of candidates proposing to teach in town, and give notice thereof by posting the same in two or more public places within the town at least three weeks before the time of said examination, or the publication for a like length of time of said notice in one or more of the county newspapers having the largest circulation in the county. They[1] shall employ teachers for the several districts in the town, and notify the several school agents of the teachers employed and the compensation agreed to be paid; and in the absence of any agreement to the contrary, five and one-half days shall constitute the school week, and four weeks shall constitute a school month.

School week and month.

Examine candidates for instructors. Act 1873, c. 120.

Second.—On satisfactory evidence that a candidate possesses a good moral character, and a temper and disposition suitable to be an instructor of youth, they shall examine him in reading, spelling, English grammar, geography, history, arithmetic, book-keeping and physiology and other branches as they may desire to introduce into public schools, and particularly in the school for which he is examined, and also as to capacity for the government thereof.

[1] Prior to statute of 1870, c. 85, the power of employing teachers was vested in the district agent.

Give certificates to teachers. Act 1871, c. 215.

Third.—They[1] shall give to each candidate found competent, a certificate that he is qualified to govern said school, and instruct in the branches above named, and such other branches as are necessary to be taught therein or may render valid by indorsement any graded certificates issued to teachers by normal school principals, county supervisors, or state superintendent of common schools.

Fourth.—Direct[2] the general course of instruction, and select a uniform system of text books, due notice of which shall be given; and any text-book thus introduced, shall not be changed for five years thereafter unless by a vote of the town, and any person violating the provisions hereof shall be punished by fine not exceeding five hundred dollars, to be recovered in an action of debt by any school officer or person aggrieved. And when said committee has made such selection of school books, they may contract, under section six, with the publishers for the purchase and delivery thereof; make such rules as they deem effectual for their preservation and return; or if they are kept for sale, may regulate the sale and appoint an agent to keep and sell them, fix the retail price which shall be marked on the title page of each book.

Examine schools.

Fifth.—Examine the several schools, and inquire into the regulations and discipline thereof, and the proficiency of the scholars therein, for which purpose one or more of the committee shall visit each school at least twice in summer, and twice in winter, and use their influence to secure the regular attendance at school of the youth in their town.

May dismiss teachers for sufficient cause.

Sixth.—After due notice and investigation,[3] they shall dismiss any teacher, although having the requisite certificate, who is found incapable or unfit to teach, or whose services they deem unprofitable to the school, and give

[1] See R. S., 1871, c. 11, § 65. Jose v. Moulton, 37 Maine, 367; Jackson v. Hampden, 20 Maine, 37.

[2] Donahue v. Richards, 38 Maine, 376.

[3] Jackson v. Hampden, 20 Maine, 37 *supra;* Jackson v. Hampden, 16 Maine, 184.

to said teacher a certificate of dismissal and of the reasons therefor, a copy of which they shall retain, and immediately notify the district agent of such dismissal, which shall not deprive the teacher of compensation for previous services.

Give certificate in such cases.

Seventh.—Expel from a school any obstinately disobedient and disorderly scholar, after a proper investigation of his behavior, if found necessary for the peace and usefulness of the school, and restore him on satisfactory evidence of his repentance and amendment.

May expel disorderly scholars.

Eighth.—Exclude from the public schools, if they deem expedient, any person who is not vaccinated, though otherwise entitled by law to admission thereto.

May expel scholars not vaccinated.

Ninth.—Direct or approve in writing the expenditure of school money apportioned to inhabitants not included in any district.

Direct expenditures.

Tenth.—Prescribe the sum, on the payment of which persons of the required age resident on territory, the jurisdiction of which has been ceded to the United States, included in or surrounded by a school district, shall be entitled to attend school in such district; and when such territory adjoins two or more districts, they shall designate the one where they may attend.

Prescribe sums to be paid in certain cases.

Eleventh.—Determine what description of scholars shall attend each school, classify them, and transfer them from school to school, in districts where more than one school is kept at the same time, and no district committee is elected. And may authorize the admission of scholars in one district into the schools of another district.

May classify scholars.
See §§ 37 and 38.
Same c. of R. S.

Twelfth.—At the annual town meeting, they shall make a written report of the condition of the schools for the past year, the proficiency made by the pupils, and the success attending the modes of instruction and government of the teachers; and they shall transmit a copy thereof to the superintendent of common schools.

To make annual report

As amended by Act March 16, 1861.

27. They shall annually make out a statement, containing the following particulars:

Shall make annual statement.

First.—The amount of money raised and expended for the support of schools, designating what part is raised by

Ibid. § 55.
Particulars.

taxes, and what part from other funds, and how such funds accrued.

Second.—The number of school districts, and parts of districts in their town.

Third.—The number of children between four and twenty-one years of age, belonging to their town in each district, on the first day of April preceding.

Fourth.—The number of such children who reside on islands, or in any other part of the town not in any district.

Fifth.—The whole number, and the average number of scholars attending the summer schools; the whole number, and the average number of scholars attending the winter schools, and also the total number of different scholars attending school two weeks or more of the preceding year as shall appear from teachers' registers returnable to said officers, agreeably to section sixty-three, chapter eleven of the Revised Statutes.

Act 1873, c. 134.

Sixth.—The average length of the summer schools in weeks; the average length of the winter schools in weeks; the average length of the schools for the year.

Seventh.—The number of male teachers and the number of female teachers employed in the public schools during any part of the year.

Eighth.—The wages of male teachers per month, and the wages of female teachers per week, exclusive of board.

Ninth.—They shall give in their returns the number of scholars as they existed on the first day of April next preceding the time of making said returns, and full and complete answers to the inquiries contained in the blank forms furnished them under the provisions of law; certify that such statement is true and correct, according to their best knowledge and belief; and transmit it to the office of the superintendent of common schools, on or before the first day of May in each year. When, by reason of removal, resignation or death, but one member of the committee remains, he shall make said returns.

28. When school district agents are empowered by the town to employ teachers before the commencement of a term of school, they shall give written notice to some member of the superintending school committee or to the supervisor, when it is to commence, whether to be taught by a master or mistress, and how long it is expected to continue. A town at its annual meeting may empower the school district agents to employ the teachers, instead of the superintending school committee, and when such power is so granted to said agents it shall remain in force until it is otherwise ordered by a vote of the town at its annual meeting, and this act is in force when approved.

Act 1872, c. 87.
Agents authorized to employ teachers to notify school com. when school is to commence, &c.

District agents may be authorized to employ.
Ibid.

29. Each school agent shall return to the superintending school committee, in the month of April, annually, a certified list of the names and ages of all persons in his district, from four to twenty-one years, as they existed on the first day of said month, leaving out of said enumeration, all persons coming from other places to attend any college or academy, or to labor in any factory, or at any manufacturing or other business.

Agents to return lists of persons from 4 to 21 years of age to S. S. Committee.
R. S., 1871, c. 11, § 61.

30. If any school agent neglects to return the scholars of his district, the superintending school committee shall, under oath, immediately make such enumeration in such district and be paid a reasonable sum therefor, to be taken from the amount to be apportioned to the district of such delinquent agent. The superintending school committee shall return to the assessors on or before the fifteenth day of May, annually, under oath, the number of scholars in each school district, according to the enumeration provided for in sections fifty-six, sixty and sixty-one, chapter eleven Revised Statutes of 1871.

If agent neglects, S. S. committee to make enumeration of scholars.
R. S., 1871, c. 11, § 56, 1876, c. 142

Committee to make return of list of scholars in each district to assessors.
R. S., 1871, c. 11, § 57.

31. If any parent, master or guardian, after notice from the teacher of a school that a child under his care is deficient of the necessary school books, refuses or neglects to furnish such child with the books required, the superintending school committee, on being notified thereof by the teacher, shall furnish them at the expense of the town; and such expense may be added to the next town tax of the parent, master or guardian.

Committee to furnish books, if parents or guardians neglect.
Ibid. § 58.

Compensation for sup. sch. com. and supervisors.
Ibid. § 59.

32. Superintending school committees and supervisors shall be paid for their services, on satisfying the municipal officers that they have made the returns to the secretary of State required by law, one dollar and fifty cents a day and all necessary traveling expenses, and no more unless ordered by the town.

Act 1876, c. 68. Assessors or municipal officers to make sworn statement to State Supt.

33. The assessors or municipal officers of each city, town or plantation, shall, on or before the first day of May in each year, make to the State superintendent of common schools, a certificate under oath embracing the following items:

First. The amount of money voted by the town for common schools at the last preceding annual meeting.

Second. The amount of school moneys payable to the town from the State treasury during the last school year, meaning by the school year, the year ending with the first day of April.

Third. The amount of moneys actually expended for common schools during the last school year.

Fourth. The amount of school moneys unexpended, whether in the town treasury or in the hands of district agents.

Fifth. Answers to such other inquiries as may be presented to secure a full and complete statement of school revenues and school expenditures.

Duty of State Supt. in above matter.

34. It shall be the duty of the State superintendent of common schools to prepare and furnish to the town officers such blanks as he may deem proper to secure the fiscal returns required in section one of this act. And furthermore it shall be the duty of the said superintendent to return to the State treasurer on the first day of July annually, a list of such towns as have made the fiscal returns required by section one of this act, and no school moneys shall be paid by the State treasurer to any town, so long as it neglects to make such fiscal returns.

DUTIES AND QUALIFICATIONS OF INSTRUCTORS.

Teachers to keep school register. R. S., 1871, c. 11, § 63.

35. Every teacher of a public school shall keep a school register containing the names of all the scholars who enter the school, their ages, the date of each scholar's

entering and leaving, the number of days each attended, the length of the school, the teacher's wages, a list of text books used, and all other facts required by the blank form furnished under the provisions of law; such register shall at all times be open to the inspection of the school committee, and be returned to them at the close of the school. No teacher shall be entitled to pay for his services, until the register of his school properly filled up, completed, and signed, is deposited with the school committee or with a person designated by them to receive it.

Not to be paid till register is completed.

36. The presidents, professors, and tutors of colleges, the preceptors and teachers of academies, and all other instructors of youth, in public or private institutions, shall use their best endeavors to impress on the minds of the children and youth committed to their care and instruction, the principles of morality and justice, and a sacred regard for truth; love of country, humanity, and a universal benevolence; sobriety, industry, and frugality; chastity, moderation, and temperance; and all other virtues, which are the ornaments of human society; and to lead those under their care, as their ages and capacities admit, into a particular understanding of the tendency of such virtues to preserve and perfect a republican constitution, and secure the blessings of liberty, and promote their future happiness; and the tendency of the opposite vices to slavery, degredation, and ruin.

Instructors of colleges, &c., to inculcate morality, justice and patriotism.

Ibid. § 64.

37. If any person,[4] whether he is a scholar or not, enters any school-house or other place of instruction during or out of school hours, while the teacher or any pupil is there, and wilfully interrupts or disturbs the teacher or pupils by loud speaking, rude or indecent behavior, signs, or gestures; or wilfully interrupts a school by prowling about the building, making noises, throwing missiles at the school-house, or in any way disturbing the school, he shall forfeit not less than two, nor more than twenty dollars to be recovered as provided in chapter eleven, Revised Statues.

Penalty for disturbing schools.

Ibid. § 89.

38. If a minor injures or aids in injuring any school-house, out-buildings, utensils or appurtenances belonging

[4] Stevens v. Fassett, 27 Maine, 266; State v. Leighton, 35 Maine, 195.

Parents or guardians liable.
Ibid. § 90.

thereto; defaces the walls, benches, seats, or other parts of said buildings by marks, cuts or otherwise; or injures or destroys any property belonging to a school district, such district by its agent or committee, may recover of his parent or guardian, in an action of debt, double the amount of damages occasioned thereby.

Penalty for defacing school-houses.
Act of 1874, c. 165.

39. Whoever shall deface the walls, benches, seats, blackboards, or other parts of any school-house or out-buildings belonging thereto, by making thereon obscene pictures, marks or descriptions, or by writing thereon obscene language, shall be punished by fine not exceeding ten dollars; and municipal and police courts and trial justices shall have jurisdiction thereof on complaint made within one year after commission of the offence.

Innholders and shopkeepers, &c., not to give credit to students.
R. S., c. 11, § 95.
For all general provisions relating to schools see R. S., c. 11.

40. If an innholder, confectioner, or keeper of a shop, boarding house, or livery stable, gives credit for food, drink, or horse or carriage hire to any pupil of a college or literary institution in violation of its rules, or without the consent of its president or other officer authorized thereto by its government, he shall forfeit a sum equal to the amount so credited, whether it has been paid or not, to be recovered in an action of debt by the treasurer of such institution, half to its use, and half to the use of the town where it is located; and no person shall be licensed by the municipal officers for any of said employments, if it appears that within the preceding year he had given credit contrary to the provisions hereof.

For acts relating to free high schools.
See 1873, c. 115, and c. 124.

In relation to school exercises and examinations.
Resolve of March 18, 1880, c. 213.

41. Among the exercises of the public schools, shall be the reading of the constitution of the United States and the constitution of the State of Maine, as often as once in each term, by every scholar who has attained the age of fourteen years, either singly or in connection with a class, and that each scholar shall pass an examination at the close of each term, in the presence of the visiting superintending school committee or supervisor, on the first, eighth and thirteenth articles of amendments of the constitution of the United States and on article first of the constitution of Maine. And it shall be the duty of the teachers and of the superintending school committee or supervisor, in each town, to see that the requirements of the above resolve are carried into effect.

Ordinances.

1. The school committee are authorized to elect all such instructors as they may think necessary for the public schools, and to determine the amount of their respective salaries; also to remove any instructor from said schools, when in their discretion it may be proper; and generally to execute all the powers which the selectmen of towns or school committees are authorized by the laws of this State to exercise.

School committee to elect and remove instructors, and determine their salaries, &c.
Rev. Ord. 1868.

2. The school committee are authorized to distribute the annual sum which shall be appropriated by the city council for salaries of instructors in the public schools, fixing the salary of each instructor in accordance with the specifications of said committee on which the aggregate amount of salaries may have been predicated, and on which the appropriations shall have been made by said city council.

To apportion salaries of instructors, so as not to exceed the appropriations made by city council.
Ibid.

3. No person who has not been vaccinated or otherwise secured against any contagion of small pox, shall be permitted to attend any of the city schools.

Persons not vaccinated not permitted to attend public schools.
Ibid.

4. The school committee may cause any scholar of any of the city schools to be vaccinated by the city physician, at the expense of the city; and it shall be their duty to carry into effect the provisions of this and the preceding section, and for that purpose to make such rules and regulations as they may deem proper.

School committee may cause scholars to be vaccinated at expense of city.
Ibid.

TRUANTS.

5. All children between the ages of six and seventeen years, residing in the city of Portland, without any regular and lawful occupation, growing up in ignorance, shall be required, unless there be some sufficient reason to the contrary, to attend some public or private school, or suitable place of instruction.

Children between the ages of six and seventeen, required to attend school unless, &c.
Rev. Ord. 1868.

6. Every child in the city of Portland between the ages of six and seventeen years, who shall not attend

Punishment for not attending school.
Ibid.

school, and not be engaged in any regular and lawful occupation, and growing up in ignorance, shall be punished by a fine not exceeding twenty dollars, to be recovered to the use of the city, on complaint before the[5] municipal court in said Portland, or by being placed in the house of correction in said city, for such period of time as the judge of said court may deem expedient.

Truant officer to be appointed.

Ibid.

Amended 1878, July 1.

Duty.

7. The city council of the city of Portland shall annually appoint one or more persons, who alone are authorized to make the complaints as specified in this ordinance, but during the months of July and August such person or persons may, with the concurrence of the mayor and aldermen, be appointed to such special police duty as may be required, at such compensation as they may fix. It shall be their duty during the session of the schools to report daily at the office of the superintendent of schools between the hours of 8 and 9 A. M. to receive the names of truants and such other information and instruction as may be necessary, and it shall be their duty to arrest all such children as are described in the first, fourth, fifth and sixth sections of this ordinance, who may be found during school hours in any of the streets, alleys, lanes, squares, or other public places of resort or amusement, and to take them to such schools as they are accustomed or entitled to attend, where they shall be detained during school hours by the teacher thereof, and written notice of such arrest and detention shall be forthwith sent to the parent or guardian of such child by the officer by whom the arrest is made, and every child who shall have been three times thus arrested shall be proceeded against by complaint as an habitual truant.

[5] See *post* § 10, also R. S., 1871, c. 142, § 9. Boys cannot be sent to Reform School beyond minority.

8. The house of correction connected with the alms house, in the city of Portland, or State reform school, is hereby assigned and provided as the institution of instruction, house of reformation or other suitable situation, mentioned in section fourteen of chapter eleven of the revised statutes.

What provided as suitable places of punishment.
Rev. Ord. 1868.

9. Every child in the city of Portland, between the ages of eight and sixteen years, who shall become an habitual truant, shall be punished by a fine not exceeding twenty dollars, to be recovered to the use of the city, on complaint before the municipal court of said Portland, or by being placed in the house of correction, in said city, or State reform school, for such period of time as the judge of said court may deem expedient.

Habitual truants, how punished.
Ibid.
See R. S., 1871, c. 142, § 9.

10. Every child in the city of Portland, between the ages of eight and sixteen years, who shall not attend school, and not be engaged in any regular and lawful occupation, and growing up in ignorance, shall be punished by a fine not exceeding twenty dollars, to be recovered to the use of the city, on complaint before the municipal court, in said city, or by being placed in the house of correction in said city, or the State reform school, for such period of time as the judge of said court may deem expedient.[6]

Children between the ages of eight and sixteen not attending school, how punished.
Ibid.

SCHOOL BUILDING SUPERINTENDENT.

11. There shall be annually elected by the city council an officer to be called the superintendent of public school buildings at such salary as may be fixed by the city council. He shall have an office in the city building and shall be in attendance at his office during at least two fixed hours on each secular day.

School buildings. Superintendent.
Ord. April 3, 1877.
Ibid. § 2.

12. He shall have the care of the public school buildings, and under the direction of the committee on public buildings, and out of the appropriation

[6] *Supra*, § 7, and R. S., 1871, c. 142, § 9, and c. 11, § 15.

made therefor shall make all necessary repairs to said school buildings, making no contract therefor exceeding twenty-five dollars without the order of said committee on public building and attend to the heating of the same and see that the janitors employed do their duty in all respects.

Ibid. § 3.

13. Under the direction of the schoool committee and out of the appropriations made therefor he shall attend to furnishing the schools by contract awarded to the lowest bidder with stationery and schools apparatus and ordinary school supplies needed for the use of the schools, and shall report to that committee as well as to the committee on public buildings the condition of the school buildings, and also report to the school committee such articles as are needed for the use of the schools. He shall keep separate accounts with each school of all expenditures for repairs, and also for articles furnished, and at the end of each school term he shall make inspection and shall return to the school committee an account of all property belonging to the city in each school room.

Ibid, § 4.

14. All bills for the care, repairs and heating of the school buildings before payment shall be approved by the committee on public buildings, and all bills for supplies and articles furnished the schools before payment, shall be approved by the school committee, and finally both classes of bills shall be audited and approved according to law by the board of mayor and aldermen.

Non-resident children may be admitted into school under rules of school committee. Ord. Oct. 5, 1880.

15. Children non-residents of Portland, may be admitted to the public schools of this city under such rules as the school committee may prescribe, when in the opinion of said committee it may be done without prejudice to the schools to which admission is solicited, on the payment quarterly in advance to the City Treasurer of a tuition to be fixed by school com-

mittee, not less than the average cost to the city per scholar for tuition, and incidentals in schools of the same grade. Children residents of this city whose parents remove from one school district to another during school time, shall be allowed to elect which school they will attend until the next vacation.

Seal of the City.[1]

Ordinance.

Seal of the city.

Seal of the city. Rev. Ord. 1868.

The design hereto annexed shall be the device of the city seal; and the motto shall be as follows, to wit:—"*Resurgam*, *Sigillum Civitatis Portlandiæ*."

[1] Where a corporation makes a contract through an agent, who puts to it a seal, it becomes, by law, the seal of the corporation, though it is not their common seal. Porter v. A. and K. R. R. Co., 37 Maine, 349. Bonds issued by corporation, impressed with a seal, declared to be sealed, accepted as such, are deemed to be under the corporate seal. Woodman v. York and Cumb. R. R., 50 Maine, 549. A scroll is not a seal, McLaughlin v. Randall, 66 Maine, 226. A wafer may be a seal, State v. McNally, 34 Maine, 210.

Sewers.

[See chapter on "DRAINS AND SEWERS," City Charter; also Revised Statutes, 1871, c. 16.]

Sidewalks.

[See title, "STREETS."]

Sinking Fund.

Ordinances.

1. Committee on reduction of city debt.
2. Appropriations for the payment of city debt.
3. Duty of auditor.
4. Committee may loan to city treasurer.

Committee on reduction of city debt.
Ord. July 1, 1861, and Rev. Ord. 1868.

1. The mayor, the chairman of the board of aldermen and the president of the common council, shall be a committee to be called the committee on reduction of the city debt, whose duty it shall be to cause all moneys passed to their credit in the books of the auditor of accounts, to be applied to the purchase or payment of the capital of the debt of the city, in the manner they may from time to time deem expedient; and it shall be the duty of the auditor, and of the treasurer of the city, to conform to all orders in writing in this respect, which shall be made and signed by all the members of said committee.

Appropriations for payment of city debt.
Rev. Ord. 1868, as amended by Ord. March 10, 1877.

2. All balances of money unappropriated remaining in the treasury at the end of any financial year; all excesses of income over the original estimated income; all balances of appropriations original, or by additions remaining on the books of the auditor; all receipts for premiums on city notes issued, all receipts in money on account of the sale of any real estate of any description now belonging or which may hereafter belong to the city excepting the sale of burial lots in the cemeteries of the city, all receipts on account of the principal sum of any stocks, bonds or notes now owned, or which may be hereafter owned by the city; and also of the annual tax, such a sum as the city

See also Ord. Aug. 7, 1878, and Ord. Oct. 5, 1880.

council of each year shall fix and determine not less than one per cent. of the then existing city liabilities after deducting therefrom the amount of the A. & St. L. R. R. loan and the building loan; shall be and the same hereby is appropriated to the payment or the purchase of the principal of the city debt.

Duty of auditor.

Rev. Ord. 1868.

3. It shall be the duty of the auditor, annually, to pass to the credit of the committee on the reduction of the city debt, all receipts, the proceeds of either of the sources before mentioned, and the said amount out of the annual tax; and the sums so passed to the credit of said committee shall be drawn from the treasury of the city for the payment, or the purchase of the capital of the city debt, in the manner before mentioned, and for no other purpose whatever.

Committee may loan to city treasurer.

Ibid.

4. The committee on the reduction of the city debt are hereby authorized to lend on interest to the treasurer of the city any amount so passed to their credit as aforesaid, which may not be immediately wanted for the purchase or redemption of said debt.

See title "FINANCE."

Solicitor.

Ordinances.

1. City solicitor to be chosen. His qualifications.
2. His duties.
3. To commence and prosecute suits. To defend suits against city. To appear before the legislature and committees thereof. To furnish legal opinions.
4. To make annual report to city council of unfinished business. Report to be published.

City solicitor to be chosen.
Rev. Ord. 1868.
City charter.
His qualifications.

1. In the month of March, annually, and whenever a vacancy in the office shall occur, there shall be chosen by the city council, a solicitor for the city of Portland, who shall have been admitted an attorney and counsellor of the courts of the State, and he shall be removable at the pleasure of the city council.

His duties.
Rev. Ord. 1868.

2. It shall be the duty of said city solicitor, by himself or by some person by him duly authorized, for whose conduct, skill and faithfulness he shall be accountable, to draft all bonds, deeds, obligations, contracts, leases, conveyances, agreements, and other legal instruments of whatever nature, which may be required of him by any ordinance or order of the mayor and aldermen, or of the city council, or which by any ordinance or order may be requisite to be done and made by the city of Portland, and which by law, usage and agreement, the city is to be at the expense of drawing.

To commence and prosecute suits.
Ibid.

3. It shall be the duty of said city solicitor to commence and prosecute all actions and suits to be commenced by the city, before any tribunal in this State, whether in law or equity, and also to appear and defend and advocate the rights and interests of

the city, or any of the officers of the city, in any suit or prosecution for any act or omission in the discharge of their official duties, wherein any estate, right, privilege, ordinances or acts of the city government, or any breach of any ordinance may be brought into question. And said solicitor shall also appear before the legislature of this State, or any committee thereof, and there in behalf of the city, represent, answer for, defend and advocate the interests and welfare of said city, whenever the same may be directly or incidentally affected, whether to prosecute or defend the same; and he shall in all matters do all and every professional act, incident to the office, which may be required of him by the city government, or by any joint or special committee thereof, or by any ordinance or order; and he shall, when required, furnish the mayor and aldermen, the common council, or any joint or special committee of either branch thereof, and to any officer of the city government, who may require it in the official discharge of his duties, with his legal opinion on any subject touching the duties of their respective offices.

To appear before the legislature and committees thereof.

To furnish legal opinions.

4. It shall be the duty of said city solicitor, annually, in the month of February, to report in writing, to the city council, all the unfinished business in his department, including the names, grounds, and stages of progress, of all suits pending, in which the city is a party or is interested; with the names and results of such suits, affecting the city, as may have been decided or adjusted during the year, and such other information as to the business of his department as he may think important, or the city council may direct; which report shall be published with the other annual reports to be made to the city council.

To make annual report to city council of unfinished business.

Ibid.

To be published.

Steam.

Statutes.

1. Steam Heating Co. Act of incorporation.
2. Capital stock.
3. Privileges.
4. Not to obstruct public travel.
5. Privileges after three years.
6. Management.
7. Authority of city after ten years.
8. Franchises continued.
9. Liability for obstructing streets.
10. Liability for injuries to private property.
11. First meeting.
12. Control of city.
13. When to take effect,
14. Rights of other parties.

Steam Heating Co. Incorporation.
1880, c. 204.
Approved March 9, 1880.

1. Jacob S. Winslow, Horatio N. Jose, George F. Holmes, William W. Thomas, junior, George P. Wescott, Charles McCarthy, junior, Edward H. Davies, George F. Morse, their associates and successors, are hereby constituted a body politic and corporate, by the name of the Steam Heating and Power Company, and by that name shall have and enjoy all the necessary powers and privileges to effect the objects of their association, and shall be subject to such duties, liabilities and exemptions as are or may be provided by the general laws of this state in case of manufacturing corporations.

Capital stock.
Ibid.

2. The capital stock of said company shall be not less than thirty thousand dollars, nor more than three hundred thousand dollars, and shall be divided into shares of not exceeding one hundred dollars each. Said company, having first obtained permission of the municipal authorities therefor, shall have power to erect, establish and

maintain in the city of Portland, suitable works for the manufacture and distribution of steam for heating purposes and power for manufacturing establishments.

3. The said company is hereby authorized to lay down, in and through the streets of said city, and to take up, replace and repair, all such pipes, conduits and fixtures as may be necessary for the objects of its incorporation, first having obtained the consent of the city council therefor, and under such restrictions and regulations as said city council may see fit to prescribe; and any obstruction in any street of said city, or taking up, or displacement of any portion of any street without such consent of city council, or contrary to the rules and regulations that may be prescribed as aforesaid, shall be considered a nuisance, and said company shall be liable to indictment therefor, and to all the provisions of law applicable thereto; and said company shall, in all cases, be liable to repay to said city all sums of money that said city may be obliged to pay on any judgment recovered against said city for damages occasioned by any obstructions, or taking up, or displacement of any street by said company whatever, with or without the consent of the city council, together with the counsel fees and other expnsese incurred by said city in defending any suit to recover damages as aforesaid, with interest on the same, to be recovered in an action for money paid to the use of said company. Privileges.

4. Whenever the company shall lay down any pipes, conduits or fixtures in any street, or make any alteration or repairs upon its works in any street, it shall cause the same to be done with as little obstruction to the public travel as may be practicable, and shall at its own expense, without unecessary delay cause the earth and pavement removed by them to be replaced in proper condition. It shall not be allowed, in any case, to obstruct or impair the use of the pipes and fixtures of the Portland Gas Light Company, or of the Portland Water Company, or of any public or private drain, or common sewer, or reservoir; but said company shall have the right to cross, Not to obstruct public travel. Ibid.

or, where necessary, to change the direction of any private drain in such a manner as not to obstruct or impair the use thereof, being liable for any injury occasioned by any such crossing or alteration to the owner thereof, or any other person, and to said city, in an actionupon the case.

Privileges after 3 years. Ibid.

5. If the said company shall be duly organized within three years from the passage of this act, and shall, within that time, have raised and expended at least ten thousand dollars for the objects of its incorporation, and shall have actually commenced the manufacture and distribution of steam, it shall then have and enjoy the franchise and privileges granted it by this act, exclusively, for the term of ten years from the date of its organization, subject to the terms and limitations hereinafter prescribed, and subject to all such regulations and control as may, by law, be exercised over corporations by the judicial tribunals of this State.

Management. Ibid.

6. The management of the affairs of the company, and all expenditures made for the purposes authorized by this act, shall be directed by a board of five or seven directors, to be chosen annually.

Authority to city after ten years. Ibid.

7. At the expiration of the term of ten years named in the fifth section of this act, the city of Portland shall be authorized, upon vote of the city council to that effect, to pay to said company the appraised value of its buildings, works, pipes, fixtures and other property, and upon such payment may take and hold all said property, without any right, privilege or franchise remaining to said company, and may dispose of said property in such manner as the city council shall determine. For the purpose of making the valuation aforesaid, the city council shall, within three months before the expiration of the ten years aforesaid, give notice to the company, and appoint two disinterested persons, and the company shall appoint two other disinterested persons, to be appraisers, and the four persons so appointed shall appoint a fifth disinterested person, to be one of the appraisers. If the company shall neglect or omit, for two months after the notice aforesaid, to appoint appraisers on its part, then the two appraisers appointed by the city council shall be authorized to make the appraisal, and the decision of the appraisers in either

case shall be final. And if said company neglects or refuses for the space of one month after an appraisal shall have been made in pursuance of the provisions of this section, and after the said city shall have notified said company of its readiness to take said property at such appraisal, to deliver all its aforesaid property to said city, and to execute good and sufficient conveyances thereof, then said city may take possession of said property and hold the same as is hereinbefore provided, being responsible to said company to pay the appraised value aforesaid; and no sale of said property, at any time by said company, in derogation of the rights of said city herein specified, shall be valid, as against the right of the city to take said property as aforesaid.

Franchises continued.

8. If the city of Portland shall not so pay for and take the property of the company at the appraisal so made, then the franchise and privileges hereby granted to said company, shall be continued to it, and shall be held and enjoyed by it exclusively, for a further term of twenty years after the expiration of the ten years aforesaid, subject to the limitation prescribed in the seventh section of this act.

Ibid.

Penalty for obstructing streets.

9. If said company or any of its servants or officers employed in effecting the objects of the company, shall wilfully or negligently place or leave any obstruction in any of the streets of Portland, beyond what is actually necessary in constructing its works, laying down, taking up, and repairing its pipes and fixtures, or shall wilfully or negligently omit to repair and put in proper condition any street in which the earth or pavement may have been removed by it, the company shall be subject to indictment therefor, in the same manner that towns are subject to indictment for bad roads, and shall be holden to pay such fines as may be imposed therefor, which fine shall be collected, applied and expended in the same manner as is provided in case of the indictment aforesaid against towns, or may be ordered to be paid into the treasury of the city. If any person shall suffer injury in his person or property, by reason of any such negligence, wilfulness or omission, he shall be entitled to recover damages of

Ibid.

the company therefor, by an action on the case in any court of competent jurisdiction.

For injuring property. Ibid.

10. Nothing contained in this act shall be construed to effect or diminish the liability of said corporation for any injury to private property by depreciating the value thereof or otherwise, but said corporation shall be liable therefor, in an action on the case.

First meeting.

11. The first meeting of said corporation may be called by a notice signed by any three of the corporators, published five days successively before the day fixed for such meeting, in any newspaper published in Portland.

In control of city. Ibid.

12. The mayor and aldermen for the time being shall at all times have the power to regulate and control the acts and doings of said corporation, which may in any manner injuriously affect the health, property or safety of the inhabitants of the city.

When take effect. &c.

13. This act shall be taken and deemed to be a public act, and shall be in force from and after its approval by the governor.

14. Nothing in this act shall be construed to affect or abridge the rights of any parties in said city now having and exercising rights similar to any of those granted by it.[1]

[1] For "STEAM ENGINES," and "STEAM WHISTLES," see Title "NUISANCES."

Streets.

Statutes.

1. Authority of city council over streets. Land damages. Appeal.
2. How damages may be apportioned. Act of 1872.
3. Form of notice to lot owners. Act of 1872.
4. Owner aggrieved may have assessment made by committee or jury. Act of 1877.
5. Proceeding, when no appeal, and assessment not paid.
6. Recovery of assessment by action.
7. Original location of streets to be ascertained by city engineer. Persons may object.
8. Obstruction of streets on public occasions.
9. Portland Gas Company may lay pipes, &c. Liability for damages.
10. Excavations near streets, how to be made; responsibilities.
11. Damages occasioned by raising or lowering streets.
12. Sliding and coasting on streets.
13. Townways across or under railway, how built and maintained.
14. Towns may reinstate townways discontinued.
15. Highway may be constructed in Portland into tide waters.
16. Towns may raise money for bridges and ways as other taxes.
17. Ways to be kept open and in repair.
18. Ways on lines between towns.
19. Ways on lines between towns, how divided and repaired.
20. Municipal officers to assign limits to surveyors.
21. Towns shall raise money for roads, &c.
22. Person injured by defect in highway may have action, &c.
23. Not exceeding $2,000.
24. Slippery sidewalk no defect.
25. Person knowing defect and not notifying.
26. Buildings and fences existing twenty years, true bounds, &c.
27. Towns to maintain guide posts.
28. Municipal officers to erect guide posts.
29. Sidewalks, in relation to laying.

Ordinances.

1. Names of streets to be continued.
2. Committee on laying out new streets to be appointed.
3. Committee to lay out, &c., new streets. To estimate damages. To report to city council.
4. Commissioner of streets to be elected. To be sworn. Compensation. May be removed.
5. Duties of commissioner. Shall not change the grade of streets, without, &c. To make contracts. To have charge of teams, &c.
6. Powers of street commissioners given to commissioner of streets. To pay damages sustained in consequence of neglect of duty.
7. Commissioner shall be acquainted with lines, &c., of streets. To remove obstructions. To perform duties prescribed by mayor and aldermen or city council. To make arrangements for supply of labor.
8. Commissioner shall discharge all bills once a month. To render account to board of aldermen. To keep account of receipts and expenditures. To present annual account.
9. To cause stone monuments to be erected when, &c. To be recorded.
10. Monuments not to be removed without, &c. Penalty.
11. Dangerous lots of land to be fenced. Penalty. Street commissioner shall cause lots to be fenced.
12. Streets not to be dug up, or gravel removed from, without license, &c. Penalty.
13. Street broken up shall be repaired. Penalty.
14. No drain or aqueduct to be opened or repaired without license. Penalty.
15. When license is granted to open a drain, &c., street to be repaired to satisfaction of commissioner. One half of street to be kept open. Railing to be kept up. To be lighted. Penalty.
16. Notice to be given of intention to build. Portion of street to be alloted. Portion allotted to be used for building materials, &c. Rubbish, &c., to be carried away. In case of neglect, to be removed at expense of person. To be lighted. Penalties.
17. Lumber, stones, and building materials not to be placed in streets to remain over six hours. Penalty. May be removed at expense of owner.
18. Proceedings when owners refuse to remove them. To be sold at auction.
19. No person to blast rocks within fifty rods of street without license. Penalty.

20. Persons not to play at bat and ball. Not to throw snow balls. Penalties.
21. Not to shoot with bow and arrow. Penalty.
22. Not to fly kites. Not to coast on sleds or skate. Penalty.
23. Gaming tables or devices not to be exposed in streets. No person to play at unlawful games in street.
24. No person to swim or bathe in exposed situations. Penalty.
25. Manure not to be taken from streets without permission.
26. Streets shall not be obstructed by moving of buildings. Building obstructing streets to be removed at expense of owner.
27. Penalties.
28. No goods or merchandise to be placed so as to project into street. Penalty.
29. Awnings may be placed. Proviso. Regulations.
30. Signs, &c., not to project into street. Penalty.
31. Making noises in the streets forbidden.
32. Grinding cutlery, &c., in the streets, forbidden, unless license.
33. Porticoes, porches, &c., not to project into street. Penalty.
34. Cellar doors, &c. Not to remain open, unless lighted. Light to be kept at entrance. Penalties.
35. Entrance and steps to be secured with railings or chains. Light to be placed. Penalties.
36. Apertures and coal holes not to be made without license. Penalty. Not to be left open. Penalty.
37. Gratings in sidewalks not to extend more than eighteen inches. Penalties.
38. Mayor and aldermen may authorize the construction of coal holes, and gratings. Not to extend more than three feet.
39. Horses shall not be driven in streets at a faster rate than six miles an hour. Penalty.
40. Horses, cattle and swine, not to run at large. Penalty.
41. Horses or animals not to be frightened. Penalty.
42. Speed of trains in Commercial street regulated.
43. Bells of locomotives to be rung.
44. Brakemen to be attached to brakes.
45. Penalties.
46. Articles to be unloaded on southeast side of railroad track. Not to obstruct streets leading to, or passage ways. Proviso.
47. Engines, &c., not to obstruct streets or passage ways.
48. Side tracks, or turn-outs not to be laid without permit of mayor. Street commissioner to superintend the same.

49. Vessels or boats not to be made fast to sea-wall or coping stones; not to lay so as jib-boom, &c., may project. Articles not be shipped or landed over coping stones.
50. Penalties.
51. Width of sidewalk regulated. Sidewalk may be accepted after put in repair.
52. City to maintain sidewalks relinquished. Proviso.
53. Bricks and sand to be furnished to lay sidewalks. To be laid under direction of street commissioner.
54. When city council require sidewalks to be paved.
55. City assume one-half the expense.
56. Names of streets to be recorded. Sidewalk and descriptions to be entered.
57. Alteration in sidewalks. Post and trees not to be set without consent, &c.
58. Carriages, hand-carts, &c., not to go on sidewalks. Horses or animals not to stand upon.
59. Wood not to be sawed or split upon.
60. Persons not to stand in a group upon side or cross walks so as to obstruct, &c. Penalty. To move on. Penalty.
61. Goods not to be placed upon foot or sidewalk, to obstruct, &c. Penalty. Penalty for suffering to remain after notice. Proviso.
62. Snow to be removed from foot way or sidewalk. Penalty.
63. To apply to snow falling from buildings.
64. Ice to be removed from sidewalks, or to be covered with sand, &c. Penalty.
65. Ice thrown into streets to be placed evenly, and to be broken into small pieces.
66. Word streets to include alleys, lanes, &c., unless, &c.
67. Provisions of preceding sections not to limit rights and duties of commissioner of streets.
68. Streets may be made on Back cove flats.
69. Amendment of first section of ordinance on buildings.
70. Encroachments on streets.
71. No new grades fixed or old ones changed, except by vote of city council. Of petitions for grades. Notice.
72. Committee to submit plans and estimates for paving.
73. Numbering streets.
74. Number for every lot.
75. Plan.
76. Street monuments.
77. Streets must be kept clear of obstructions by person occupying.
78. Opening streets where gas or water pipes are laid.
79. Excavations near streets.
80. Further duties of Street Commissioner.
81. To protect public grounds.

82. Street lamps, penalty for lighting or extinguishing.
83. Lamp posts, located and existing.
84. Lamp posts how to be located.
85. Lamp posts how taken to be established.
86. Lamp posts. Record.

REGULATIONS RESPECTING GAS PIPES IN STREETS.

1. Company to give notice to the commissioner of streets of commencement of work. Of completion. Street commissioner to examine the same.
2. Streets not to be dug up, &c., without consent of mayor and aldermen. Penalties. Streets not to be dug up, &c., before pipes are ready to be laid down.
3. Liability of company for damages.
4. Trenches made, fenced and lighted.
5. Work to be done with convenient despatch. Streets to be repaired. Materials, rubbish, &c., to be removed. Company to repair streets to satisfaction of commissioner. In case of refusal, to be repaired at expense of company.
6. Restrictions respecting pipes laid in contact with drains or sewers. Course of drains, &c., may be changed.

Statutes.

Authority of city council over streets.

City charter, 1863, § 9.

1. The city council shall have exclusive authority[1] to lay out. widen or otherwise alter, or discontinue any and all streets or public ways in the city of Portland, without petition therefor, and as far as extreme low water mark; and to estimate all damage sustained by the owners of land taken for that purpose; but all locations below high water mark shall be subject to the provisions of the laws relating to the commissioners of Portland harbor. A joint standing committee of the two boards shall be appointed. whose duty it shall be to lay out, alter, widen or discontinue any street or way in said city, first giving

[1] By this section the city council have all the powers to locate and alter treets which by general law is conferred upon the inhabitants and selectmen of towns. The location of a street is not an act of appropriation of money and it is not necessary to be approved by mayor. Committee on laying out streets have certain powers of city council. Preble v. Portland, 45 Maine, 241; Jones v. Portland, 57 Maine, 42. As to general powers of city council in laying out a new street, under similar statutes in Mass., see Brimmer v. Boston, 102 Mass., 19; Harrington v. Harrington, 1 Met., 404; Commonwealth v. B. & L. R., 12 Cush., 254; Westport v. Bristol, 9 Allen, 203; Johnson v. Wyman, 9 Gray, 186.

notice of the time and place of their proceedings to all parties interested, by an advertisement in two daily papers printed in Portland, for one week at least previous to the time appointed. The committee shall first hear all parties interested, and then determine and adjudge whether the public convenience requires such street or way to be laid out, altered or discontinued; and shall make a written return of their proceedings, signed by a majority of them, containing the bounds and descriptions of the street or way, if laid out or altered, and the names of the owners of the land taken, when known, and the damages allowed therefor; the return shall be filed in the city clerk's office at least seven days previous to its acceptance by the city council. The street or way shall not be altered or established until the report is accepted by the city council, and the report shall not be altered or amended before its acceptance. A street or way shall not be discontinued by the city council, excepting upon the report of said committee.[2] The committee shall estimate and report the damages sustained by the owners of the lands adjoining that portion of the street or way which is so discontinued; their report shall be filed with the city clerk seven days at least before its acceptance. Any person aggrieved by the decision or judgment of the city council in establishing, altering, or discontinuing streets, may, so far as relates to damages, appeal therefrom to the next court having jurisdiction thereof, in the county of Cumberland, which court shall determine the same by a committee or reference under a rule of court, if the parties agree, or by a verdict of its jury, and shall render judgment and issue execution for the damages recovered, with costs to the party prevailing in the appeal.[3] Such appeal shall be made to the term of the supreme judicial court, which shall first be holden in the county of Cumberland, more than thirty days from and after the day the street is finally established, altered or discontinued, excluding the day of

Land damages. But see new provisions of sections 2, 3, 4, 5 and 6.

[2] See R. S., 1871, c. 18, § 1, contained in § 8, *post*.

[3] See R. S., 1871, c. 18, § 9.

commencement of the session of said court. The appellants shall serve written notice of such appeal upon the mayor or city clerk, fourteen days at least before the session of the court, and shall at the first term file a complaint setting forth substantially the facts of the case. On the trial, exceptions may be taken to the rulings of the court, as in other cases. Co-tenants who are appellants shall join in their appeal or shall not recover their costs. If a street or way is discontinued before the damages are paid or recovered for the land taken, the land owner shall not be entitled to recover such damages but the committee in their report discontinuing the same, shall estimate and include all the damages sustained by the land owner, including those caused by the original location of the streets; and in such cases, if an appeal has been regularly taken, the appellant shall recover his costs. The city shall not be compelled to construct or open any street or way thus hereafter established, until in the opinion of the city council the public good requires it to be done; nor shall the city interfere with the possession of the land so taken by removing therefrom materials or otherwise, until they decide to open and construct said street. The city council may regulate the height and width of sidewalks in any public square, places, streets, lanes or alleys in said city; and may authorize posts and trees to be placed along the edge of side walks. Nor shall the city be answerable for damages occasioned by telegraph poles and wires erected in its streets.

Appeal.

2. Whenever the city council of any in this State shall lay out any new street or public way, or widen or otherwise alter or discontinue any street or way in such city, and shall estimate and decide that any person or persons or corporations have or will sustain any damage[4] thereby,

How damages caused by laying out or widening street may be apportioned. Act 1872, c. 26.

[4] The damages awarded are such damages as arise from a proper construction of the way, Jackson v. Portland, 63 Maine, 55. Such damages must be assessed as a whole, Ford v. Co. Commissioners, 64 Maine, 408; Mussey v. Cahoon, 34 Maine, 64; Hicks v. Ward, 69 Maine, 436. For discussion of whole subject see Dillon on Mun. Corporations, § 483, *et seq.* The appropriation of land to public use is one of the highest acts of sovereign power and should be accomplished only by clear, explicit language. Glover v. Boston, 14 Gray, 282. See also cases cited in § 1, *supra.*

and the amount thereof to each in the manner that now is or may be provided by law, it shall be lawful for said city council to apportion the damages so estimated and allowed, or such part thereof as to them may seem just, upon the lots or parcels of land adjacent to and bounded on such street or way, and not those lots for which damages are allowed, in such proportions as in their opinion such lots or parcels of land are benefitted or made more valuable by such laying out or widening or otherwise altering or discontinuing of such street or way; provided, however, that the whole assessment so made shall not exceed the damages so allowed. And that before such assessment. shall be made, notice shall be given to all persons interested to appear before said city council, at a time and place specified, if they shall see cause, to be heard upon the subject-matter, which notice shall be published in some newspaper in said city at least one week before said time of hearing.

Form of notice to owners of lots assessed. Ibid.

3. After said assessment shall be made upon such lots or parcels, and the amount fixed upon each, the same shall be recorded by the city clerk, and notice shall be given within thirty days after the assessment to each owner and proprietor of said lots and parcels, by delivering to each of such owners resident in said city a certified copy of such recorded assessment, or by leaving such copy at his last and usual place of abode, and by publishing the same three weeks successively in some newspaper published in said city, the first publication to be within said thirty days, and said city clerk within said thirty days shall deposit in the post office of said city, postage paid, a certified copy of such assessment directed to each of such owners or proprietors residing out of said city, whose place of residence may be known to said clerk, and the certificate of said clerk duly made shall be deemed and taken to be sufficient evidence of these facts, and the registry of deeds for each county in the State, as the case may be, shall be the evidence of title in allowing or assessing damages and improvements under this act, so far as notice is concerned.

4. Any owner or proprietor, as aforesaid aggrieved by reason of the sum so assessed upon his lot or parcel of land, may, at any time within six months after such assessment, have the same assessed by a committee or jury,[5] as now provided by law for the estimate of damages for land taken for laying out, altering, widening or discontinuing any new street or public way in either of said cities; and if, upon appeal, such owner or proprietor shall fail to be assessed a smaller sum than that assessed by the city council, then said city shall recover costs after appeal, which shall be added to and become part of said assessment; otherwise, the appellant shall recover costs after said appeal, and the clerk of the courts for the county as the case may be, within thirty days after final judgment, in case of appeal, certify such judgment to the clerk of said city, as the case may be.

Owner aggrieved may have the assessment made by a committee or jury.
1877, c. 172.

5. In case the sums so assessed by said city council upon such lots or parcels of land shall not be paid to the city treasurer within six months after such assessments, and no appeal is claimed, the mayor of said city, under the order of the city council, may issue his warrant directed to the city treasurer of said city, reciting substantially the proceedings had, and direct said treasurer to sell all such lots, the assessment upon which has not been paid as aforesaid, at public auction to the highest bidder, or so much of each of such lot or parcel as may be necessary to pay said assessment and all intervening charges and costs, first giving public notice of the time and place of sale by posting notices thereof in two public places in said city, and publishing the same three weeks successively before said sale, in some newspaper published in said city. And it shall be the duty of said treasurer to obey said warrant, and to execute and deliver to the purchaser of said lot or parcel, or any part thereof, a deed of the same which shall convey a good and valid title of the same to the purchaser; and the owner or proprietor aforesaid may redeem the same at any time within two years after such sale, by paying or tendering to the purchaser, or deposit-

Proceedings when there is no appeal and the assessment is not paid.
Ibid.
1872, c. 26.

[5] Goodwin v. Merrill, 48 Maine, 282; Gay v. Gardiner, 54 Maine, 477; Williams v. Richmond, 59 Maine, 517; Dillon on Mun. Corp's, *supra*.

ing with the city treasurer, of said city the amount paid by such purchaser, with interest at the rate of twelve per cent. per annum; and a lien shall be created and in force and exist upon each of said lots and parcels for the payment of said assessments, and all costs and charges after said assessment is made, and until the same is paid.

Recovery of assessment by action.

6. In all cases after said assessment is due and payable, said city treasurer for said city may recover the same, and all charges and costs, of the owner or proprietor, in an action of assumpsit for money due and owing said city in addition to the mode pointed out in the foregoing provisions of this act for collecting said assessment.

Original location of streets to be ascertained by city engineer, how often.

City charter, § 21.

7. The original location of all streets and ways in said city shall, once in ten years, or oftener, be ascertained by the city engineer, under the direction of the city council, as accurately as practicable—the location of different streets being ascertained by him from time to time, when expedient. He shall make a written report of his doings to the committee on new streets, which shall give twenty days notice, by advertisement in two or more public papers in the city, of the time and place at which it will act upon said report. Any person may appear and object to the report; and after a full hearing of all parties interested, the committee may accept, alter or amend the report as it shall think right, and shall report their proceedings to the city council, who shall thereupon determine the lines of such streets and ways in said city, according to the original location thereof, and shall order the same to be designated anew by fixed and permanent boundaries, as, and for, the original boundaries; and a record of the location thereof to be made upon the city records; and a copy of the last record of such proceedings respecting any street, with evidence of the location of the boundaries therein designated, shall in all judicial proceedings, be *prima facie* evidence of the place of the original location of said street.

Persons may object.

Obstruction of streets on public occasions.

Ibid. § 22.

8. The mayor and aldermen of said city may on public occasions, by their order, forbid the passing, temporarily, of horses, carriages or other vehicles, over or through such streets or ways in said city, as they may

deem expedient. Nothing in any city charter, or in acts additional thereto, shall be so construed as to deprive county commissioners of the power to lay out, alter or discontinue county roads, within the limits of such cities.

Powers of county commissioners to include cities.
R. S., 1871, c. 18, § 1.

9. The Portland Gas[6] Company are authorized to lay down, in and through the streets of the city, and to take up, replace, and repair all such pipes and fixtures as may be necessary for the objects of their incorporation, first having obtained the consent of the city council therefor, and under such restrictions and regulations as said city council may see fit to prescribe. And any obstruction in any street of the city, or taking up or displacement of any portion of any street, without such consent of the city council or contrary to the restrictions or regulations that may be prescribed as aforesaid, shall be considered a nuisance. And said company shall be liable to indictment therefor, and to all the provisions of law applicable thereto.

Portland Gas Co. authorized to lay down pipes, &c., in streets.
Act 1849, c. 288, § 3.

10. Persons desirous of making an excavation near a streets or public way, may make written application to the municipal officers setting forth its nature and extent, and requesting their direction thereon; and they shall in writing direct whether it may or not be made, and if permitted, the manner of making it; and when so made, no liability is incurred thereby. If not so made, the person making it is liable to pay to the town, in an action on the case, all damages occasioned by the repair of the way, or paid to persons injured by defects therein, caused by such excavation.

Excavations near streets, how to be made. Responsibilities.
R. S., 1871, c. 18, § 79.

11. When a way or street is raised or lowered by a surveyor or person duly authorized, to the injury of an owner[7] of land adjoining, he may within a year apply in writing to the municipal officers and they shall view such way or street, and assess the damages, if any, occasioned thereby, to be paid by the town; and any person ag-

Damages occasioned by raising or lowering streets.
—how determined.
R. S., c. 1871, 18, § 53.

[6] See title, "Gas," § 3.

[7] The "owner" at time of injury. Sargent v. Machias, 65 Maine, 591; Hovey v. Mayo, 43 Maine, 322. See also Smith v. Alexandria, 33 Grattan, reported in Al. Law Jour., vol. 23, p. 437, and cases cited.

Amended by Act 1874, chap. 246.

grieved by said assessment of damages, on petition to the county commissioners, may have them assessed by a committee or jury in the manner provided respecting highways.

Sliding and coasting on public streets regulated.

12. The muicipal officers may designate and describe any public streets, roads, or side walks in their respective towns, on which it shall be unlawful for any person to slide with a sled[8] or other vehicle, under a penalty not exceeding five dollars and the forfeiture of the sled or other vehicle so used, to be recovered on complaint to the use of the town where the offense is committed. When any streets, roads, or sidewalks have been designated and described as provided above, the municipal officers shall cause the same to be recorded in the records of the town, and their action shall be valid and in force until modified or annulled by like authority, and it shall be the duty of police officers and constables to enforce the provisions of this act, and make complaint of all violations thereof.

Act 1872, c. 42.

Town ways across or under railway, how built and maintained.

Act 1878, c. 43.

13. Townways and highways may be laid out across, over or under any railroad track, in the manner provided by law for laying out such ways; and when such way crosses such track at grade, the expense of building and maintaining so much of such way as is within the limits of such railroad, shall be borne by the railroad company whose track is so crossed; and when such way is laid out under or over such track, and not at grade the expense of building and maintaining so much thereof as is within the limits of such railroad, shall be borne by such railroad company, or by the city or town in which such way is located, or be apportioned between such railroad company and such city or town, as may be determined by the railroad commissioners, upon petition, and after notice and hearing of the parties. Either party aggrieved by their decision thereon may appeal therefrom to the supreme judicial court, at any time after such decision

When not at grade expense adjusted by railroad commissioners.

Ibid.

Ways already laid out.

[8] A boy coasting upon a sled is not a defect or want of repair in the highway for which a city is liable to a person struck by the moving sled. Pierce v. New Bedford, 129 Mass., 534, and cases cited Shepherd v. Chelsea, 4 Allen, 113; Barber v. Roxbury, 11 Allen, 318; Hutchinson v. Concord, 41 Vt. 271.

has been made, in writing, and before the next term of said court within and for the county in which such way is located, at which term such appeal may be entered and prosecuted by the party appealing. If the party appealing fails to appear at that term to prosecute the appeal, the decision of the railroad commissioners shall be final and conclusive. If the appeal is then entered, not afterwards, the court may appoint a committee of three disinterested persons, not residents of the county in which such way is located, who shall be sworn, and if one of them dies, refuses to act, or becomes interested, the court may appoint another in his place; and they shall give such notice as the court has ordered, view the way in question, hear the parties, and make their report at that or the next term of the court after their appointment, whether the decision of the railroad commissioners should be in whole or in part affirmed or reversed, which being accepted, and judgment thereon entered, shall be final and conclusive in the case. Costs may be taxed and allowed to either party, at the discretion of the court. In case of such ways already so laid out, over or under any railroad track, and not at grade, the expense of building and maintaining so much of such way as is within the limits of such railroad, shall be borne as provided above, the question to be determined upon application of any railroad company whose track is so crossed, made within sixty days after notice, in writing, hereafter served on such railroad company by the municipal officers of any city or town in which such way is located, requesting such railroad company to build and maintain so much of such way as is within the limits of their road. All provisions of any act inconsistent with this act are hereby repealed.

Town may reinstate town ways discontinued.

14. When a town has duly accepted a town way, and said town way is subsequently discontinued by the county commissioners on appeal, before such road shall have been opened for travel, such town may at its annual

Act 1878, c. 41.

meeting, holden within three years thereafter, by a majority of the voters present and voting, reinstate and lay out such town way, under an article in the warrant for such meeting, for such purpose. And the damages shall be assessed, and the owners of the land over which said way passes notified thereof by the municipal officers, within thirty days after said meeting; and any person so damaged, dissatisfied with the amount of damages allowed, may petition the county commissioners within fifteen days after said notice, for an increase of damages, and such action shall be had thereon as is now provided in case of town ways laid out on petition, but nothing in this act shall affect any proceedings or rights now pending. A town way so re-established and laid out shall not be discontinued for five years thereafter.

Public highway may be constructed in Portland into tide-waters.

Ferryway and landing.

Private laws 1873, c. 375.

15. That the county commissioners of the county of Cumberland, on petition of one hundred or more citizens of said county, be and hereby are authorized and empowered to locate a public highway in the city of Portland, extending into tide waters of sufficient depth, with a good substantial ferry-way[9] and landing therein, suitable for the passage and accommodation of teams and foot passengers, with right to take private property therefor, in like manner and effect as in locating other highways in said county. Said highway and landing shall be governed and controlled by said city of Portland, and so much of said highway and landing as is not required for said ferry purposes may be used or leased by said city for any other purpose.

Towns may raise and assess money for bridges and ways as other taxes.

R. S. 1871, c. 18, § 55.

16. Towns may raise money for the repair[10] of bridges and ways, and direct the same to be assessed and collected as other town taxes, to be expended for the purpose by the selectmen or by road commissioners, as the town directs.

Ways to be kept open and in repair.

R. S., 1871, c. 18, § 40.

17. Highways, town ways and streets, legally established, are to be opened and kept in repair so that they

[9] See title, "FERRIES;" *supra*.

[10] As to meaning of word "*repair*," Todd v. Rowley, 8 Allen, 51.

are safe[11] and convenient for travelers[12] with horses, teams and carriages. In default thereof, those liable may be indicted, convicted, and a reasonable fine imposed therefor.

Ways on line between towns. Ibid. § 41.

18. When a way is established on a line between towns, their municipal officers shall divide it crosswise, and assign to each town its proportion thereof by metes and bounds, which, within one year thereafter being accepted by each town at a legal meeting, shall render each town liable in the same manner, as if the way were wholly within the town; when a division of it is not so made, the selectmen of either town may petition the county commissioners, who are to give notice by causing a copy of such application with their order thereon, appointing a time and place of hearing to be served upon the clerk of each town for thirty days, or by causing it to be published in some newspaper printed in the county for three weeks previous to the time appointed; and after hearing the parties they may make such division.

How divided, and repaired. Ibid. § 42.

19. A highway may be laid out on the line between towns, part of its width being in each, and the commissioners may then make such division of it and enter the same of record, and each town shall be liable in all respects, as if the way assigned to it were wholly in the town.

Municipal officers to assign limits to surveyors. Ibid. § 43.

20. When the municipal officers are appointed surveyors of highways by a town, they may in writing delegate their power or part of it to others. They shall annually, before the tenth day of May, make a written assignment of his division and limits to each surveyor of highways, to be observed by him.

[11] "Safe and convenient." These words mean *reasonably* so. Ibid. This point fully discussed in the following cases: Church v. Cherryfield, 33 Maine, 460; Rogers v. Newport, 62 Maine, 101; Perkins v. Fayette, 68 Maine, 152; Farrell v. Oldtown, 69 Maine, 72. For further cases as to what constitutes a defect, see cases under § 22, of this chapter.

[12] It is only those who are using way as "travellers" that can recover for injuries caused by defects. Those using a street for horse racing or for a play ground, or for any purpose except as a thoroughfare for travel cannot claim rights as travellers. McCarthy v. Portland, 67 Maine, 167; Leslie v. Lewiston, 62 Maine, 468; Stinson v. Gardiner, 42 Maine, 248; Philbrick v. Pittston, 63 Maine, 477.

Towns raise money.

Lists, &c.

Ibid. § 44.

21. Each town shall annually raise money to be expended on the town and highways, to be assessed as other town charges. The assessors shall deliver to each surveyor, on or before the tenth day of May, a list of the persons and of the assessments on them to be expended within his limits. Two-thirds thereof are to be so expended before the first day of the next July.

Person injured by defect in highway may recover damages.

Act 1877, c. 206, amending R. S. 1871, c. 18, § 65.

22. If any person[13] receives any bodily injury, or suffers any damage in his property, through any defect or want of repair or sufficient railing, in any highway, townway, causeway or bridge, he may recover for the same, in a special action on the case, to be commenced within one year from the date of receiving such injury, or suffering damage, of the county or town obliged by law to repair the same, if the commissioners of such county, or the

[13] Some leading decisions on this statute are collected and grouped as follows: What constitutes a defect? This question is one of fact, for the jury to decide under all the circumstances. The following cases show different conditions of way which have been passed upon by courts and juries. Weeks v. Parsonsfield, 65 Maine, 285; Church v. Cherryfield, 33 Maine, 460; Bartlett v. Kittery, 68 Maine, 358; Butler v. Bangor, 67 Maine, 385; Raymond v. Lowell, 6 Cush., 534. Towns are not always compelled to keep their ways free from obstructions from one boundary to the other. This depends upon the nature and amount of travel. Dickey v. Maine Tel. Co., 46 Maine, 483; Whitney v. Cumberland, 64 Maine, 541; Howard v. North Bridgwater, 16 Pick., 189; Dillon on Mun. Corp., § 787 and notes. Where there is no dispute about the facts the question of defect is a question of *law*. Witham v. Portland, 72 Maine, —; King v. Thompson, 87 Penn., 369; Cushing v. Boston, 124 Mass., 437.

Want of railings or barriers. If railings are necessary for security of travellers towns must furnish same. Rowell v. Lowell, 7 Gray, 100; Blaisdell v. Portland, 39 Maine, 113; Stinson v. Gardiner, *supra*; Burnham v. Boston, 10 Allen, 290.

Defects in Bridges.—Gregory v. Adams, 14 Gray, 242; Heland v. Lowell, 3 Allen, 407; Harriman v. Boston, 114 Mass., 241; Crosby v. Boston, 118 Mass., 71; Nebraska City v. Campbell, 2 Black, 590.

Defects in Sidewalks.—Bacon v. Boston, 3 Cush., 174; Witham v. Portland, *supra;* Raymond v. Lowell, *supra;* Loan v. Boston, 106 Mass., 450. As to liability for awnings and falling substances, see various and somewhat diverse decisions in Dillon on Mun. Corp's, § 789, note.

As to present law with regard to notice to city, the statute is explicit; actual notice on the part of an officer means actual knowledge.

Direct and proximate cause,—due care.—In order to recover of the city the person must show that he was in exercise of ordinary care at time of accident, and that the defect was the direct and proximate cause. Gleason v. Bremen, 50 Maine, 222; Baker v. Portland, 58 Maine, 199; Garmon v. Bangor, 38 Maine, 443; Witham v. Portland, *supra;* 4 Cush., 247; 5 Mass., 294; 106 Mass., 278; 107 Mass., 347; 117 Mass., 204.

The injury must be the result of the defect alone.—Moulton v. Sanford, 51 Maine, 127; Perkins v. Fayette, 68 Maine, 152; Card v. Ellsworth, 65 Maine, 547; 114 Mass., 507; 13 Met., 297; 107 Mass., 347; 115 Mass., 571.

municipal officers, highway surveyors, or road commissioners of such town had twenty-four hours' actual notice of the defect or want of repair; and any person who sustains any injury or damage, as aforesaid, shall notify the county commissioners of such county, the municipal officers, or some one of them, of such town, within fourteen days thereafter, by letter or otherwise, in writing, setting forth his claim for damages and specifying the nature of his injuries and the nature and location of the defect which caused such injury. If the life of any person is lost through any such deficiency, his executors or administrators may recover of such county or town liable to keep the same in repair, in an action on the case, brought for the benefit of the estate of the deceased, such sum as the jury may deem reasonable as damages, if the parties liable had said notice of the deficiency which caused the loss of life; at the trial of any such action the court may, on motion of either party, order a view of the premises where the defect or want of repair is alleged to have existed, when it would materially aid in a clear understanding of the case.

Person injured by defect in highway may recover damages not exceeding $2000.

23. No person shall recover more than two thousand dollars damages against any town or city, in any action on account of injury to his person and property, by reason of any defect or want of repair or sufficient railing, in any highway, townway, causeway or bridge.

Act 1879, c. 156.

Slippery sidewalk no cause of action.

24. No town or city shall be liable to any action for the recovery of damages to any person on foot, on account of snow or ice, on any sidewalk or cross-walk, nor on account of any slippery condition of any sidewalk or cross-walk.

Ibid.

Person knowing the defect to exist shall not recover unless he has notified town.

25. No person shall recover damages of any town or city, in any case, on account of injury to his person and property, by reason of such defect or want of repair, who has notice of the condition of such way previous to the time of the injury, unless he has previously notified the municipal officers of such town or city, or some one of them, of the defective condition of such way. All acts and parts of acts inconsistent with this act are hereby repealed.

Ibid.

Repeal of inconsistent acts.

Ibid.

Buildings and fences existing twenty years on a street or way deemed true bounds.
R. S., 1871, c. 18, § 76.
See also R. S., 1871, c. 17, § 10.

26. When buildings or fences have existed more than twenty years fronting upon any way, street, lane or land appropriated to public use, the bounds of which cannot be made certain by records or monuments, such buildings or fences shall be deemed to be the true bounds thereof. When the bounds can be so made certain, no time less than forty years will justify their continuance thereon, and on indictment and conviction they may be removed.

Towns must maintain guide posts at crossings of ways.
R. S., 1871, c. 18, § 77.

27. Towns shall erect and maintain at all crossings of highways, and where one public highway enters another, substantial guide posts not less than eight feet high, and have fastened to the upper end of each a board, on which shall be plainly printed in black letters on white ground, the name of the next town on the route, and of such other place as the municipal officers direct, with the number of miles thereto, and the figure of a hand with the forefinger pointing thereto; and for any neglect herein, towns shall be subject to indictment, and fine not exceeding fifty dollars.

Penalty.

Municipal officers to erect guide posts.
Ibid. § 78.

28. If the municipal officers of any town unreasonably neglect to cause a guide post to be erected in their town as provided by law, they shall forfeit and pay five dollars for each month's neglect, to be recovered in an action of the case by and to the use of any person suing therefor. Plantations assessed in state or county taxes, and their officers, are under the same obligations and subject to the same penalties in these respects as towns.

Penalty.

In relation to laying sidewalks.
Private laws, 1871, c. 647.

29. The city of Portland may at their option without notice, and under such regulations or orders as they may have established or passed, or may hereafter establish or pass, construct sidewalks or footways, laid with brick, flat stones, concrete, or other materials, with suitable, curbs, on any street or portion thereof, and direct one-half the cost thereof to be assessed on adjacent lots, and for that purpose may direct the curb to be set at any time previous to the construction of the walk, and cause the cost of the curb and the cost of the paving of the walk to be assessed separately, as each is or may be done; provided that no owner or proprietor shall be assessed for more than two hundred feet in length of sidewalk or foot-

way, on any one street in front of any unimproved lots or parcels of land. The expense of said walks[14] complete, or of said curbs, or of said paving, shall be estimated and assessed within one year, by the mayor and aldermen of said city, on the several lots chargeable therewith, and by them certified to the city treasurer, in the manner and with all rights to the parties interested, as provided in section twenty-four of the act to which this is additional, and be enforced as therein provided, but said assessment shall at any time be corrected on due notice, and certified anew by the mayor and aldermen aforesaid, and no assessment shall be void by reason of error in the name of the owner or occupant of the lot assessd, provided the lot assessed is so described that the same may be distinctly known.

Ordinances.

1. The several streets of the city shall continue to be called and known by the names given to them respectively by the selectmen of the town of Portland, the mayor and aldermen of the city, or the city council, until the same shall be altered by the city council.

Names of streets to be continued. Rev. Ord., 1868.

2. There shall be appointed, annually, by the city[15] council, a joint committee to be called the committee on laying out new streets, to consist of three members of the board of mayor and aldermen, and three members of the common council.

Committee on laying out new streets to be appointed. Ibid.

3. Said committee, when thereto directed by vote of the city council, shall lay out, widen or otherwise alter any street or public way, and estimate the damages any individual may sustain thereby; and they shall report to the city council, the laying out or alteration of such street or way, with the boundaries and admeasurements thereof, together with names of

Committee to lay out, &c. new streets.

To estimate damages.

To report to city council.

Ibid.

[14] See full law of 1870, c. 348, contained in §§ 27, *et seq.* of "Charter," *supra*

[15] This committee for this purpose represents the city council. Notices to appear before it are regarded as notices to appear before the city council. It is not necessary that parties have notices to appear before the city council. Preble v. Portland, 45 Maine, 241.

the parties to whom damages have been assessed therefor.

Commissioner of streets to be elected.
Ibid,
To be sworn.
Compensation.
May be removed.

4. There shall annually be elected by the city council in convention, an able and discreet person, to be styled the commissioner of streets, who shall continue in office until removed, or until a successor be appointed, and he shall be sworn to the faithful performance of his duty. He shall receive such compensation for his services as the city council shall establish, and shall be removable at their pleasure; and in case said office shall become vacant by death, resignation, or otherwise, a successor shall be forthwith elected in the manner prescribed.

Duties of commissioner.
Ibid.
Shall not change the grade of streets, without, &c.
To make contracts.
To have charge of teams, &c.

5. It shall be the duty of the commissioner of streets to keep all streets within the city safe and convenient for travelers, to superintend the general state of the streets, sidewalks, lanes, alleys, public walks and squares of the city, to attend to the widening, alteration and repairs of the same; but he shall not be authorized to change the grade of any street, or make any permanent repairs thereon, without having first obtained therefor the sanction in writing of the committee on highways, sidewalks, and bridges. He shall make all contracts for the supply of labor and materials for the same, take general care of the carts and teams owned by the city, and make all necessary arrangements for cleaning the streets, disposing of manure, and removing house dirt.

Powers of street commissioners given to commissioner of streets.
Ibid.
To pay damages sustained in consequence of neglect of duty.

6. All the powers given to, and all the duties required from the street commissioners of the town of Portland, as defined and declared by an act of the legislature, passed on the nineteenth day of February, in the year eighteen hundred and thirty-one, are in like manner given to and required from the commissioner of streets, and any damages or expenses which the city may legally sustain in consequence of any neglect of duty on his part shall be paid by him.

7. The commissioner of streets shall make himself acquainted with the lines and bounds of streets, and remove any fences or other obstructions in the lanes, alleys and squares, and he shall perform generally such duties relative to the same, as the mayor and aldermen or city council may require. He shall make such arrangements with the overseers of the almshouse for the purpose of procuring labor and materials, as the interests of the city seem to require, and may have the teams owned by the city, kept at the city farm, under such regulations as may be agreed upon by him and the overseers of the poor, or whoever may have charge of the farm.

Commissioner shall be acquainted with lines, &c. of streets.
Ibid.
To remove obstructions.
To perform duties prescribed by mayor and aldermen or city council.
To make arrangements for supply of labor.

8. The commissioner of streets shall as often as once in every month, discharge all bills by him contracted as commissioner, by funds to be supplied to him from the money received and appropriated for that purpose, and also render to the board of aldermen a regular and complete account of the expenditures by him incurred, which account shall be audited monthly by said board, and he shall also keep an accurate account of all his receipts and expenditures, and present the same to the committee of accounts for their examination and approbation, annually, that the same may be laid before the city council.

Commissioner shall discharge all bills once a month,
Ibid.
To render account to board of aldermen.
To keep account of receipts and expenditures.
To present annual account.

9. It shall be the duty of the commissioner of streets to cause stone monuments to be erected at suitable places in any street, alley, square, or public place, when thereto directed by the committee on laying out streets, or the city engineer; and all monuments so erected shall be recorded in the street books.

To cause stone monuments to be erected, when, &c.
Ibid.
To be recorded.

10. No person shall remove, or cause to be removed, any monument placed at the corner of any street, or on the line of any street, to mark the width or course of such street, without the permission, in

Monuments not to be removed without, &c.
Ibid.

Penalty.

writing, of the mayor and aldermen first obtained, under a penalty of twenty-five dollars for each offence.

Dangerous lots of land to be fenced.
Ibid.

11. Owners and lessees of any lot of land abutting on any street, lane, or private way in this city, which for want of a fence or rail shall be dangerous, shall place, or caused to be placed in front of said lot, upon or near the line of said street, lane, or private way, a fence, rail, or guard, which in the opinion of the street commissioner shall be a sufficient guard or protection to the public from danger, by reason of the situation of such lot. And if any owner or lessee of such lot shall refuse or neglect compliance with the requirements of this section, he shall on conviction pay a penalty of not less than one dollar nor more than five dollars for every day during which such lot shall remain unfenced; and if the owners or lessees aforesaid shall neglect or refuse for two days after notice in the premises, from the city marshal or any police officer, to build or cause to be built such fence or guard, the street commissioner shall forthwith cause a proper fence or rail to be constructed in front of such lot, at the cost of the owners or lessees thereof.

Penalty.

Street commissioner shall cause lots to be fenced.

Streets not to be dug up, or gravel removed from, without license, &c.
Ibid.

12. No person or persons shall break or dig up, or assist in breaking or digging up, any part of any street, or remove any gravel or other similar thing therefrom, without having first obtained the license of the mayor and aldermen in writing, or of some person by them authorized for that purpose, under a penalty of not less than five nor more than twenty dollars; and a like sum for every day that he shall neglect or refuse to repair the same, to the satisfaction of the mayor and aldermen.

Penalty.

Streets broken up shall be repaired.
Ibid.

13. Whosoever shall, by virtue of such license, break or dig up, or cause to be dug or broken up, any part of any street, shall, within such time as the mayor and aldermen, or some person by them author-

ized, may order, cause the same to be repaired and amended, to the satisfaction of the mayor and aldermen, under a penalty of not less than five nor more than twenty dollars for each and every day that he or they shall neglect or refuse so to do after such order.

Penalty.

14. No person shall open or make any drain or aqueduct, or repair the same, by digging up the ground in any street, court, alley, or other public place in the city, without first obtaining a license therefor from the mayor and aldermen, or from some person by them authorized, in writing, specifying in what street, court, alley, or public place the drain or aqueduct is to be made or repaired. And the person who shall dig, make or repair, or cause to be dug, made or repaired, any drain or aqueduct than as above stated, shall for each offense forfeit and pay a sum not less than five nor more than twenty dollars, and a like penalty for every day that the same shall continue open.

No drain or aqueduct to be opened or repaired without license.

Ibid.

Penalty.

15. When any person[16] has obtained a license to open or make or repair a drain or aqueduct, he shall complete and finish the same with all possible dispatch, and shall in filling and covering up the same, do it to the satisfaction of the commissioner of streets; and in case of neglect so to do, the said commissioner shall cause the same to be done in suitable manner, at the expense of the person to or for whom said license was granted, and one-half of the street shall be kept constantly open for the passing of teams or carriages, and the person who shall dig, make or repair any drain or aqueduct, shall keep a good and sufficient fence or railing around the same during the whole time of making or repairing thereof, except when the laborers are actually at work; and a lighted lantern

When license is granted to open a drain, &c., streets to be repaired to satisfaction of commissioner.

Ibid.

But see Ord. of Sept. 14, 1869, in § 78 *post*.

One-half of street to be kept open.

See Ord. of July 14, 1869, in § 77 *post*.

Railing to be up.

To be lighted.

[16] This section is amended by §§ 77 and 78 *post* of this chapter, ordinances of July and September, 1869.

or some other proper and sufficient light, shall be fixed into some part of such fence, or in some other proper manner, over or near such open drain or aqueduct, from twilight in the evening until daylight in the morning, during all the time such drain or aqueduct shall be open, or in a state of repair; and whosoever shall be guilty of a breach of any part of this section shall be liable to a penalty for each offence of not less than ten nor more than fifty dollars.

Penalty.

16. Every person[17] intending to erect or repair any building upon land abutting on any of the streets, shall make the same known to the mayor, who shall have power and authority to allot such portion of the street, thereto adjoining, as he shall deem expedient and necessary, on which to deposit materials for the work provided, that not more than one-half of the width of the street shall be so occupied. And the part or portion so allotted, and no other part of said street shall be used for laying the materials for any such building or repairing, and for receiving the rubbish arising therefrom. And all the rubbish arising therefrom or thereby shall be carried away by the person or persons so building or repairing, at such convenient time as the mayor, as aforesaid, may direct, and in case of neglect or refusal so to do, it shall be removed by the commissioner of streets, or other person authorized as aforesaid, at the expense of such person or persons. And in all cases the portion so allotted shall be enclosed and lighted as prescribed in the preceding section. Every person offending against any of the provisions of this section shall be liable to a penalty for each offence of not less than five nor more than twenty dollars, and a like sum for every day such offence shall be continued or repeated.

Notice to be given of intention to build.

Portion of street to be allotted.

Portion allotted to be used for building materials, &c.

Rubbish, &c., to be carried away.

In case of neglect, to be removed at expense of person.

To be lighted. Penalties.

Ibid, as amended by city charter, § 10.

[17] This section is amended by ordinance July 19, 1869, § 77, *post*.

17. No person shall place or cause to be placed in any of the streets, alleys, squares, or other public places of the city, any lumber, stone, or building materials of any kind, and suffer the same to remain over six hours, without the permission of the mayor and aldermen, or of some person by them authorized, and every person offending against either of the provisions of this section shall be liable to a penalty of not less than five nor more than twenty dollars for each offence, and the city marshal may remove any such lumber or other materials at the expense of the owner or owners thereof.

Lumber, stones and building materials not to be placed in streets to remain over six hours.

Penalty.

Ibid.

May be removed at expense of owner.

18. When the owner or owners of any such articles mentioned in the preceding section, shall be unknown, or being known, after notice by the city marshal, shall neglect or refuse to remove the same within the space of twenty-four hours, unless the mayor and aldermen or some person by them authorized shall give permit that the same may longer remain, it shall be the duty of the city marshal, or deputy marshals, to cause the same to be advertised, and unless such articles or things shall be duly removed, within forty-eight hours after the same shall be so advertised, and the cost thereof paid, he shall cause the same to be sold at public auction, and after deducting the reasonable expenses and charges of such sale, he shall pay the balance into the city treasury.

Proceedings when owners refuse to remove them.

Ibid.

To be sold at auction.

19. No person shall blast any rock or other substance with gunpowder at any place within fifty rods of any street or public place in the city, without license of the mayor and aldermen, in writing, specifying the terms and conditions on which said license is granted, under a penalty of not less than twenty dollars for each offense; provided, however, that the remedy of any person injured by the blasting of rocks shall not be affected by this section.

No person to blast rocks within fifty rods of street, without license.

Ibid.

Penalty.

Persons not to play bat and ball.
Not to throw snow balls.
Ibid.
Penalties.

20. No person shall play at bat and ball, or foot ball, or throw stones, brick bats, clubs, or snow balls within any of the streets, alleys, squares, or other public places of the city, under a penalty of not less than one nor more than twenty dollars for each offence.

Not to shoot with bow and arrow.
Penalty.
Ibid.

21. No person shall shoot with or use a bow or arrow, in any street, alley, or square within the city, under a penalty of not less than one nor more than twenty dollars for each offence.

Not to fly kites.
Ibid.
Not to coast on sleds or skate.
Penalty.

22. If any person shall in any street, alley, or public place set or fly a kite, or shall course or coast upon a sled[18] or skate on any side walk in the city, such person shall forfeit and pay for each offence a sum not less than one nor more than ten dollars.

Gaming tables and devices not to be exposed in streets.
Ibid.

23. No person shall expose in any street, alley, square, or other public place, any table or device of any kind whatsoever, upon or by which, any game of hazard or chance can be played, and no person shall play at any such table or device, or at any unlawful game in any street, alley, square or other public place, or on any of the wharves, under a penalty of not less than five nor more than twenty dollars for either of said offences.

No person to play at unlawful games in street.

No person to swim or bathe in exposed situations.
Ibid.
Penalty.

24. No person shall swim or bathe in the waters surrounding the city, which are adjacent to any of the wharves, bridges, avenues, or railroads leading into the same, so as to be exposed to view of spectators, under a penalty of not less than five nor more than twenty dollars for each offence.

Manure not to be taken from streets without permission.
Ibid.

25. No person shall take or carry away any street dirt or manure, collected from any street or public place in the city, without permission of the commissioner of streets first obtained, under a penalty for every offence of not less than three nor more than ten dollars.

[18] See § 12 and note, *supra*.

26. No person shall obstruct any street, or any part thereof, by placing therein any house, barn, stable, shop, or other building, and no person shall remove or draw through or upon any street, any house, barn, stable, shop, or other building, without first obtaining permission of the mayor and aldermen, and filing a bond with sufficient sureties, approved by the mayor, with the treasurer of the city, conditioned to indemnify the city for all damages sustained by drawing or moving such building; and if any building shall remain in any street or place, beyond the time allowed by such permit, it shall be the duty of the city marshal, when directed by the mayor and aldermen, to cause such building to be taken down or removed out of the street at the expense of the owner thereof.

Streets shall not be obstructed by moving of buildings.

Ibid.

Building obstructing streets to be removed at expense of owners.

27. Any person offending against either of the provisions of the preceding section shall forfeit and pay for each offence a penalty of not less than fifty dollars, and shall further be liable to indemnify the city for all damages to which it may be subjected in consequence of such violation.

Penalties.

Ibid.

28. No person shall place, or cause to be placed, or shall suspend or cause to be suspended from any house, shop, store, lot, or place, over any street, any goods, wares or merchandise whatsoever, or any other thing, so that the same shall extend or project from the wall or front of said house, store, shop, lot, or place, more than one foot towards or into the street, under a penalty of not less than three nor more than twenty dollars for each offence.

No goods or merchandise to be placed so as to project into street.

Ibid.

Penalty.

29. It shall be lawful to place, or continue to maintain awnings and shades before any house, shop or store, in any street, upon the terms and under the regulations mentioned in this section, and not otherwise; provided that the mayor and aldermen, as to particular buildings or streets, may order that no awnings or shades shall be erected. Such awnings

Awnings may be placed.

Regulations.

Ibid.

or shades shall be safely fixed and supported, in such manner as not to interfere with passengers, and so that the lowest part thereof shall never be less than eight feet in height, above the sidewalk or street, and in no case to extend beyond the line of the sidewalk; and the person so placing or continuing to maintain the same, shall in all respects conform to any directions in relation to the materials, the construction and maintenance thereof, which shall be given by the mayor and aldermen. Any person violating any of the provisions of this section, or such directions of the mayor and aldermen shall be liable to a penalty of not less than three nor more than twenty dollars, and to a like penalty for every day that such awning or shade shall be continued in violation of such provision or direction.

Signs, &c., not to project into streets.

Ibid.

Penalties.

30. No person shall hang, erect or fasten any sign, show-bill, lantern, or show-board of any description whatever, which shall project into any street more than one foot, under a penalty of not less than five nor more than twenty dollars for each offence, and a like penalty for every day such sign, show-bill, lantern, or other board shall be continued after an order to remove the same, given by the mayor and aldermen, or any person authorized by them.

Making noises in streets forbidden.

Ibid.

31. No person shall in any street or other public place make any loud and unusual noises, by shouting, sounding horns, drums, or any instrument or thing, nor sing, nor utter any obscene and indecent songs or words, nor shall in any other unruly or boisterous manner disturb the peace, quiet and good order of the city, under a penalty of not less than five nor more than twenty dollars for each offence.

Grinding cutlery, &c., in streets forbidden, unless licensed.

Ibid.

32. No person shall stand in any street or on any sidewalk for the purpose of grinding cutlery, or for the sale of any article, or for the exercise of any other business or calling, unless duly licensed by the mayor

and aldermen, under a penalty of not than three nor more than twenty dollars for each offence.

Porticoes, porches, &c., not to project into street. Penalty. Ibid.

33. No person shall construct or place, or cause to be constructed or placed, any portico, porch, door, window, or step which shall project into any street, under a penalty of not less than twenty dollars for each offence, and a like penalty for each day that the said portico, porch, door, window, or step, shall be continued as aforesaid after notice to remove the same from the mayor and aldermen, or some person by them authorized.

Cellar doors, &c. Ibid.

34. It shall not be lawful to construct or to continue to maintain any cellar door or cellar door-way, in any sidewalk, or projecting into any street, for the purpose of being kept open as a common entrance, except as herein provided. No occupant or other person having the care of any building, shall suffer any cellar door, or cellar doorway, connected with such building, projects into any street to remain open, or the platform thereof to be removed more than fifteen minutes during any part of the night time, or for more than two hours in the whole during the day time, unless duly licensed so to do by the mayor and aldermen, and in all cases whenever any such cellar door or door-way shall be open in the night time as aforesaid, a good and sufficient light shall be kept at the entrance of such door or doorway. Every person offending against any of the provisions of this section shall forfeit and pay a penalty of not less than five nor more than twenty dollars for each offence.

Not to remain open unless licensed.

Light be kept at entrance.

Penalties.

Entrance and steps to be secured with railings or chains. Ibid.

35. Every entrance or flight of steps descending immediately from any street, into any cellar or basement story of any building, where such entrance or flight of steps shall not be safely and securely covered, shall be enclosed with a railing on each side, perma-

nently put up, at least three feet high from the top of the sidewalk or pavement, together with either a gate to open inwardly, or two iron chains across the front of the entrance way, one near the top and the other half way to the top of the railing; and such gate or chains shall, unless there be a light over the steps to prevent accidents, be closed during the night. And any person who shall be guilty of a violation of any of the provisions of this section, shall be liable to a penalty of not less than five, nor more than twenty dollars, and a like penalty for each and every day during which such violation continues, which penalty may be recovered of the owner, occupant or other person having charge of such building.

Light to be placed.

Penalties.

Apertures and coal-holes not to be made without license.

Ibid.

36. No person shall make, or cause to be made, any aperture in or under any street or sidewalk, for the purpose of constructing coal-holes, or receptacles for any other article, or for light or air, or for an entrance or for any other purpose, extending more than eighteen inches into the street, without the license of the mayor and aldermen, under a penalty of not less than two nor more than twenty dollars for each offense, and a like penalty for every day the same shall remain after notice to securely fill up and close the same, given by the mayor, or city marshal, or deputy mashal; and no person shall leave such coal hole or other aperture open or unfastened after sunset, nor in the day time unless while actually in use, with a person or persons by the same, under a penalty of not less than two nor more than ten dollars for each offence.

Penalty.

Not to be left open.

Penalty.

Gratings in sidewalks not to extend more than eighteen inches.

Penalties.

Ibid.

37. No person shall affix or place, or cause to be affixed or placed, or continue in any street or sidewalk, any grating, extending more than eighteen inches into the street, without the license of the mayor and aldermen, under a penalty of not less than two nor more than twenty dollars for each offense,

and a like penalty for every week the same shall remain after notice to remove the same given by the mayor, city marshal, or deputy marshal.

Mayor and aldermen may authorize the construction of coal holes and gratings.

38. The mayor and aldermen, upon application therefor, may authorize the construction of coal-holes or apertures for the purposes herein before mentioned, and gratings therefor, to extend more than eighteen inches into the street, in such manner as they deem suitable, and under the direction of the commissioner of streets, or some person by him authorized, at the expense of the applicant; and they may also authorize the continuance of any grating already constructed, provided that in no case shall any grating be authorized to extend more than three feet into the street.

Ibid.

Not to extend more than three feet.

Horses shall not be driven in street at a faster rate than six miles an hour.

39. No person having for the time being the care or use of any horse or other beast of burden, carriage or draught, shall ride or drive or cause the same to be driven through any part of the city at a faster rate than six miles an hour, under a penalty of not less than five dollars nor more than twenty dollars for each offence.

Ibid.

Penalty.

Horses, cattle and swine not to run at large.

40. No owner or person having the charge of any horse, kine, swine, sheep, goat, or other grazing animal, shall turn into nor permit the same to go at large in any street, or public place, under a penalty of not less than five dollars nor more than twenty dollars for each offence.

Ibid.

Penalty.

Horses or animals not to be frightened.

41. No person shall, within any of the streets, alleys, squares, or public places of the city, by means of any words, noises, gestures, or any other act, wantonly frighten or drive any horse, or other animal under a penalty of not less than five dollars nor more than twenty dollars for each offence.

Ibid.

Penalty.

COMMERCIAL STREET.[19]

Speed of trains in Commercial street regulated.

Ibid.

42. No railroad engine, car or cars, whether separately, or in connection with any train, shall be allowed to pass on or over any part of Commercial street, in this city, at a speed exceeding the rate of six miles per hour. And all railroad corporations are hereby restricted and prohibited from passing on or over said street, with any locomotive engine, or car, or cars, as aforesaid, at a speed exceeding the rate aforesaid.

Bells of locomotives to be rung.

Ibid.

43. Every railroad corporation shall cause the bell of each locomotive engine to be rung, and kept ringing, during the whole time of its passing on or over said street except when, to prevent accident, it may be necessary to break up or stop, in which case notice thereof shall be given by the steam whistle.

[19] For laying out of Commercial Street, see city records, book 7, page 210. The important contract of the city with the Atlantic and St. Lawrence Railroad Company, dated April 1, 1850, is recorded city records, book 7, page 245 *et seq.* The following is the order of city council, Nov. 7, 1850, laying out twenty-six feet on water side of center of said street for the benefit of the Railroad.

In Board of Mayor and Aldermen. }
Nov. 7, 1850. }

Whereas, by a contract entered into between the city of Portland and the Atlantic and St. Lawrence Railroad Company, on the first day of April, 1850, for the construction of Commercial street and for other purposes, it is provided that said Railroad Company shall have the right to use and improve the space of twenty-six feet in width of the whole length of said Commercial street, and of any street now established or that may hereafter be established in connection therewith for the purpose of laying down and using a double railroad track and running trains thereon from the depot of said railroad company on India street to the depot of the Portland, Saco and Portsmouth Railroad Company on Canal street, and for other purposes, and further that said twenty-six feet shall be located in the center of said street, or on the water side thereof as said city may direct, except where it may become necessary to make curves for the purpose of reaching or improving any depots now made or that hereafter be made at the termini aforesaid, or on the line of said street.

Therefore ordered:—That said twenty-six feet be located on the water side of the center of said street except where it may become necessary to make curves for the purpose of reaching depots now made or to be made; and at those points to be so located as shall best accommodate said Railroad Company and as said company may determine.

Read and passed, and sent down for concurrence.

Read and passed in concurrence.

Attest: WM. BOYD, Clerk.

A true copy. City records, vol. 7, page 244.

44. Every railroad corporation shall cause a suitable number of brakemen to be attached to the brakes of the several cars, and shall cause all such brakemen to attend to, and promptly perform their appropriate duties, at their respective brakes, and to continue at said brakes while passing in said street.

Brakemen to be attached to brakes.
Ibid.

45. If any railroad corporation, or their agents or servants, shall neglect or refuse to comply with any or either of the provisions contained in the three preceding sections, such corporation shall forfeit for every such neglect or refusal the sum of fifty dollars to the use of the city.

Penalties.

46. All articles brought by railroad to be landed in Commercial street shall be landed on the south side of the railroad track, and any article landed in the street, either from or for the purpose of being loaded upon the cars, shall be so placed as not to obstruct any street crossing on Commercial street or connecting with it, and so as to leave a clear space not less than fourteen feet in length, from the coping stone, and shall not be allowed to remain in the street over six working hours after they are landed. Provided, however, that cars may be unloaded in stores, and loaded from stores, on the northwesterly side of said railroad track, after four o'clock in the evening.

Articles to be unloaded on southeast side of railroad track.
Not to obstruct streets leading to, or passage ways.
Proviso.
Ibid. as amended by Ord. Aug. 27, 1869.

47. No railroad engine, tender, or car, whether separately or in a train, shall be allowed to stop on Commercial street, in such a manner as to obstruct any street or passage way crossing Commercial street, or connected with it, nor to remain standing on any part of the street any longer time than is actually necessary for unloading or taking in the freight of such car or train.

Engines, &c., not to obstruct streets or passage ways.
Rev. Ord. 1868.

48. No side track or turn-out shall be laid in Commercial street, except by permission from the mayor in writing, and under such restrictions in regard to

Side tracks or turn-outs not to be laid without permit of mayor.
Ibid.

Street commissioner to superintend the same.

its construction as he may prescribe; and whenever such permission is granted, it shall be the duty of the street commissioner to superintend the work, and he shall be authorized and required immediately to remove any side-track or turn-out laid or maintained in violation of this section.

Vessels or boats not to be made fast to sea wall or coping stones.

Ibid.

49. No vessel or boat of any description shall be allowed to be made fast to the sea-wall or coping-stone, or any other part of Commercial street, nor lay at the head of any dock along said street, so that

Not to lay so as jib-boom, &c. may project.

the jib-boom or bow-sprit, or any other fixture of the vessel or boat shall project over the line of the

Articles not to be shipped or landed over coping stones.

the street, so as to obstruct the passage way, nor shall any article be landed from, or be shipped on board any vessel or boat, on or over the coping-stone of said street.

Penalties.

Ibid,

50. Any person, or corporation, master, or owner of any vessel or boat, violating any of the provisions of the four preceding sections, shall incur a penalty to the use of the city, of not less than five nor more than twenty dollars, according to the nature and degree of the offence.

SIDEWALKS.[20]

Width of sidewalks regulated.

Ibid.

51. The joint standing committee on highways, sidewalks and bridges, are hereby empowered so to regulate the width and height of the sidewalks of any of the streets, as shall, in their judgment, be most conducive to the convenience and interest of the city, and the city council may accept such sidewalks, after

Sidewalks may be accepted after put in repair.

the same shall be put in good and perfect repair by the abutters on such streets, and after the same shall be relinquished in writing to the said city, by such abutters.

52. After such relinquishment and acceptance, such sidewalks shall be maintained at the expense of the

[20] See § 29 of statutes, this title, *supra*.

city, *provided* that when any sidewalk shall require repair, in consequence of any defect in the cellar door, curb, step or steps, cellar window, coal-hole, cellar wall, or from any other cause, within the control of the owner or occupant of the estate to which such sidewalks adjoin, then and in that case such repairs shall be made at the expense of the owner or occupant.

City to maintain sidewalks relinquished. Proviso. Ibid.

53. The commissioner of streets is authorized, whenever approved of by the committee on highways, &c. to furnish at the expense of the city, good bricks and sand at the rate of five and one-half bricks for every superficial square foot of sidewalk, to any owner or occupant of any estate, adjoining which a sidewalk is necessary; and in cases where bricks are thus furnished, the sidewalk shall be laid down under the direction of the commissioner of streets, and in all cases the person to whom the bricks are thus furnished, shall pay the expense of setting the curb stone, and for laying the bricks, and shall furnish such curb stone as shall be approved by the commissioner of streets, subject in all cases to the following specifications:

Bricks and sand to be furnished to lay sidewalks. Ibid. and amendment June 6, 1881. To be laid under the direction of street commissioner.

Each and every stone to be of first rate quality of granite, and to be at least six inches wide on top, not less than six feet long, and of uniform depth, not less than eighteen inches, and to be straight lined, without wind, and free from bunches or depressions; to be peen-hammered on top, and three inches down on the back; the front to be pointed down not less than twelve inches, and the ends squared and jointed the whole depth of the stone.

Specifications.

54. Whenever the city council may require the sidewalk or foot way in front of any lot of ground, fronting on any street or way, in the city of Portland, to be paved, it shall be the duty of the commissioner

When city council require side walks to be paved.

Ord. June 2, 1863.

of streets to notify the owner or tenant of such lot, in writing, of such requirement. And if the owner of such lot shall refuse, or neglect to pave the same as aforesaid, to the satisfaction and approval of the committee on streets, for the space of twenty days after notice as aforesaid, it shall be the duty of said commissioner to pave such sidewalk or footway in such manner as said committee may direct.

City assume one-half the expense.

Ibid.

55. The city council shall assume one-half part of the cost or expense of paving the sidewalks or footways of the streets of said city, as provided for in the preceding section, said cost or expense to be estimated and determined by the committee on streets; and the city will cause said proportion of the cost or expense of said sidewalk or footway to be paid in money or materials, as the committee on streets shall determine and elect.

Names of streets to be recorded.

Rev. Ord. 1865.

Sidewalks and description to be entered.

56 The city clerk shall keep a book in which the names of the streets shall be alphabetically arranged, and in which all the sidewalks which now are, or may hereafter be accepted as aforesaid, shall be entered with the date of such acceptance, the length and width of each sidewalk, and the names of the owner or owners of the adjoining estates.

Alteration in sidewalks.

Ibid.

Post and trees not to be set without consent, &c.

57. No person shall make any alteration in any sidewalk, or set any posts or trees on any of the sidewalks or in any part of the street, without the consent of the mayor and aldermen, or some person by them authorized under a penalty of not less than five nor more than twenty dollars for each offence.

Carriages, hand carts, &c. not to go on sidewalks.

Ibid.

Horses or animals not to stand upon.

58. No person shall drive, wheel or draw, any coach, cart, hand-cart, hand-barrow, or other carriage of burthen or pleasure, except children's hand carriages, and drawn by hand; or drive or permit any horse or other animal under his care to go or stand upon any foot-path or sidewalk in the city, under a

penalty of not less than five nor more than twenty dollars.

59. No person shall saw or split any firewood upon any footwalk or sidewalk of any street, nor place the same thereon, and no person shall stand on any such foot or sidewalk, with a woodsaw or horse, so as to obstruct a free passage for foot passengers, under a penalty of not less than one nor more than twenty dollars.

Wood not to be sawed or split upon. Ibid.

60. Three or more persons shall not stand in a group, or near to each other, on any sidewalk or crosswalk or in any street or public way in such a manner as to obstruct a free passage thereon or therein, after a request from any person to make way, under a penalty of not less than two nor more than ten dollars. And if three or more persons, standing in a group or near to each other, on any sidewalk or crosswalk, or in any street or public way in this city, so as to obstruct the walk, street, or way in any manner, shall refuse or neglect to pass on immediately, on being directed so to do by the mayor, any alderman, city marshal or deputy, or any policeman, constable, or watchman, they shall each and severally be liable to a fine of not less than five nor more than fifty dollars. And if any persons shall be found standing in groups of three or more persons, on any sidewalk or crosswalk, or on any street or public way in this city, after having been once directed to pass on by the mayor, any alderman, city marshal or deputy, or any policeman, constable or watchman, he shall be liable to a fine of not less than five nor more than twenty dollars for each offence.

Persons not to stand in a group upon side or crosswalks, so as to obstruct, &c.

Penalty.

To move on.

Penalty.

Ord. May 18, 1867, Rev. Ord. 1868.

61. No person shall place or cause to be placed upon any foot path or sidewalk in the city, any lumber, iron, coal, trunk, bale, box, crate, cask, package, or article or thing whatsoever, so as to

Goods not to be placed upon foot or sidewalks, to obstruct, &c.

Penalty.

obstruct a free passage for foot passengers, for more than ten minutes, under a penalty of not less than three nor more than twenty dollars; and if such person shall suffer such obstruction to foot passengers to remain more than one hour after it is first placed there, or more than ten minutes after notice to remove the same, given by the city marshal, deputy marshal or any police officer, the person or persons so offending shall be liable to a penalty of not less than five nor more than ten dollars for every such offence; and for each and every hour thereafter, that the same shall be suffered to remain, the person or persons so offending shall be liable to a penalty of not less than five nor more than ten dollars. *Provided*, that nothing contained in this section shall be deemed to extend to such goods, wares or merchandise as shall in conformity with such rules, regulations and orders, as shall be made by the mayor and aldermen upon the subject, be placed in any street, alley, square, or place, for the purpose of being sold at public auction.

Penalty for suffering to remain after notice.

Ibid.

Proviso.

62. The[21] tenant or occupant, and in case there should be no tenant, the owner, or any person having the care of any building or lot of land bordering not more than one hundred and fifty feet on any street, lane, court, square, or public place within the city, where there is any foot way or sidewalk, shall, after the ceasing to fall of any snow, if in the day time within three hours, and if in the night time, before ten o'clock of the forenoon succeeding, cause such snow to be removed from such foot way or sidewalk, and, in default thereof, shall forfeit and pay a sum not less than two dollars, nor more than ten dollars; and for each and every hour thereafter that the same

Snow to be removed from footway or sidewalk.

Penalty.
Ibid.
And Ord. Jan. 22, 1857.

[21] The owner of a building is liable for injuries resulting from obstructions caused by himself in the adjoining sidewalk, but not for injuries from defects in the sidewalk. Kirby v. Boylston, Market Asso. 14 Gray, 249. Similar ordinance pronounced constitutional and construed; Goddard, petitioner, 16 Pick. 504; 97 Mass. 562; 101 Mass. 251.

shall remain on such footway or sidewalk, such tenant, occupant, owner or other person, shall forfeit and pay a sum not less than one dollar, nor more than ten dollars. And if such building or lot should extend more than one hundred and fifty feet, on any street or land, it shall be the duty of such tenant or occupant, owner or other person, to remove such snow from the footway or sidewalk for the space of one hundred and fifty feet, according to the provisions and subject to the penalties aforesaid.

To apply to snow falling from buildings.

63. The provisions of the preceding section shall also apply to the falling of snow from any building.

Ibid.

Ice to be removed from sidewalks, or to be covered with sand, &c.

64. Whenever the sidewalk, or any part thereof adjoining any building or lot of land on any street, shall be encumbered with ice, it shall be the duty of the occupant, and in case there is no occupant, the owner, or any person having the care of such building or lot, to cause such sidewalk to be made safe and convenient, by removing the ice therefrom, or by covering the same with sand or some other suitable substance; and in case such owner or occupant, or other person, shall neglect so to do, for the space of six hours during the day time, he shall forfeit and pay not less than two nor more than five dollars, and a like sum for every day that the same shall continue so encumbered.

Ibid.

Penalty.

Ice thrown into streets to be placed evenly, and to be broken into small pieces.

65. Every person who shall lay, throw, or place, or cause to be laid, thrown or placed, any ice or snow into any street within the city, shall cause the same to be broken into small pieces, and spread evenly on the surface of such street, and in default thereof shall be liable to a penalty of not less than two dollars, nor more than five dollars for every offence.

Ibid.

Word streets to include alleys, lanes, &c. unless, &c.

66. Whenever the word street or streets is mentioned in this or any other ordinance, it shall be understood as including alleys, lanes, courts, public squares, and public places, and it shall also be

Ibid.

understood as including the sidewalks, unless the contrary is expressed, or such construction would be inconsistent with the manifest intent of the city council.

Provisions of preceding sections not to limit rights and duties of street commissioner.

Ibid.

67. The foregoing provisions shall not be taken or construed as limiting in any manner the legal rights and duties of the commissioner of streets to make any alterations and repairs in the streets, which he may deem the safety and convenience of the inhabitants to require.

[See city charter, section 23.]

STREETS ON BACK COVE FLATS.

Of streets on Back Cove flats.

Ord. Nov. 2, 1863, and Rev. Ord. 1868.

68. The city council upon the petition of the proprietors of Back Cove flats, will accept and lay out any necessary and desirable streets of suitable courses and widths in said Back Cove, from Tukey's bridge to Deering's bridge, and from the shore line to the line of the harbor commissioners, over flats now or hereafter filled up by said proprietors; *provided*, that said streets shall be filled to such a grade as may be established from time to time by the city, and are properly protected by solid filling or grebble walls; and *provided*, that in all such cases the city shall not be called upon to pay a compensation exceeding four cents per superficial foot of the filling of said streets, which is to be accepted by said proprietors for cost of filling and for damages; and also *provided*, that the committee on laying out and widening streets shall decide that the interests and convenience of the city require such streets to be so accepted and laid out.

LINES AND GRADES OF STREETS.

Amendment of first section of Ord. on buildings.

Ord. March 24, 1862.

And Rev. Ord. 1868.

69. The first section of the ordinance on buildings is so amended, that the notice therein provided, shall be given to the city engineer instead of the mayor and aldermen; and the same is further amended, so that, on request, the city engineer shall give the party

so notifying, the line and grade of the street, without fee.

Encroachments on streets.

70. It shall be the duty of the city marshal, street commissioner and city engineer, to give notice to the mayor, of all encroachments made or threatened, upon the streets and other public places in the city, or upon the property of the city, forthwith upon obtaining information thereof, and the mayor shall cause the provisions of this ordinance to be enforced against all persons violating the same. Ibid.

No new grades fixed or old ones changed, except by vote of city council.

71. Hereafter, no new grade shall be fixed for any street, and no old grade shall be changed, except by vote of the city council. All petitions, orders, and other propositions for new grades, or changes of grades, shall be referred to some committee, who shall investigate the case, hear all parties interested, first giving all said parties notice of said hearing by advertising in one of the newspapers of this city, and shall report thereon to the city council. Said report shall in all cases be accompanied by the written opinion of the city engineer on the proposed action, and shall be subject to such action as to the city council seems proper. Ibid. Of petitions for grades. Notice.

Committee to submit plans and estimates for paving.

72. In all cases, before paving streets or portions thereof not paved, the committee on highways, sidewalks and bridges shall submit their plans and estimates for such proposed paving to the city council for approval. This ordinance does not apply to the paving of gutters and side drains. Ibid.

Numbering streets. Ord. Dec. 17, 1868.

73. The building and lots on all streets, that may be hereafter laid out, those already laid out but not numbered, and any street already laid out, two-thirds of the legal voters occupants of the same petitioning therefor, shall be numbered in the following manner: On the streets that run lengthwise of the city territory, beginning at the north easterly termination, with numbers one and two, and progressing south

westerly, with the odd numbers on the north westerly side of the street, and the even numbers on the opposite side; and on the transverse streets beginning with numbers one and two on the south westerly or harbor side, with the odd numbers on the north easterly side of the street, and the even numbers on the opposite side.

Number for every lot.
Ibid.

74. There shall be a number for every lot not exceeding twenty-five feet of land fronting on a street, and a number for every additional twenty feet or fraction thereof, excepting that on those streets that are compactly built up, a number shall be assigned for each and every door, and to adjoining vacant lots proportionally; and corner lots shall be numbered on both streets.

Plan.
Ibid.

75. The board of mayor and aldermen may require the city civil engineer, or they may employ some competent person to make a plain skeleton plan of each street, designating the numbers and dimensions of all the lots, with the names of the owners thereon, on a scale of not less than one inch for every fifty feet, which plan shall be kept in the office of the civil engineer for reference.

Street monuments.
Ord. June 21, 1869.

76. The city engineer when required, shall take the angles contained between different street lines, and make a record of the same, as the true lines of the streets, and these angles shall all have reference to a given base line. He shall cause monuments which shall not be less than five feet in length, in the centre of the top of which shall be a copper bolt, one-half an inch in diameter, and four inches deep; the centre of the bolt shall be placed at the intersection of lines parallel to, and three feet distant from the lines of the street, at the angle as well as at the point of intersection. The tops of the monuments when practicable, shall be set to the grade of the sidewalk.

It shall be the duty of the commissioners of streets to put down such monuments when required to do so by the said engineer.

All ordinances and parts of ordinances inconsistent with this ordinance are hereby repealed; provided that all monuments so erected shall be duly recorded, and no person shall remove or cause to be removed, any such monuments, without the consent in writing of the mayor and aldermen first obtained, under a penalty of twenty-five dollars for each offence.

Streets must be kept clear of obstructions by persons who have leave to occupy. Ord. July 19, 1869.

77. Whenever any permit is granted to occupy any portion of any street, it shall be the duty of the holder of the permit to keep the gutter clear of obstructions, unless for sufficient cause the mayor or street commissioner shall allow him to enclose it, giving him therefor a written permit, in which case he shall build and maintain a temporary plank walk, not less than three feet in width, around the portion of the street occupied, the same to be to the satisfaction of the street commissioner, and not to extend outside of the portion of the street allotted in his permit. Any person violating the provisions of this ordinance shall suffer the penalties prescribed in section sixteen (16) of the "ordinance on streets," and his permit shall be void.

Opening streets where water or gas pipes are laid. Ord. Sept. 14, 1869.

78. That hereafter in all cases where any private person or persons are about to open any portion of any street where the water pipes of the Portland Water Company are laid, when such opening shall intersect, lay open, or in any manner interfere with the water pipes of the Portland Water Company, such person or persons, before proceeding to make such opening, shall give reasonable notice of the time and place of such opening to be made to the Portland Water Company, or its secretary, by leaving the same at the office of said company. That hereafter when

any private person or persons are about to open any portion of any street where the mains of the Portland Gas Light Company are laid, when such opening shall intersect, lay open, or in any manner interfere with the mains of the Portland Gas Light Company, such person or persons, before proceeding to make such opening, shall give reasonable notice of the time and place of such opening to be made to the Portland Gas Light Company, or its treasurer, by leaving the same at the office of said company. Any person violating this ordinance shall be subject to a fine not exceeding twenty-five dollars.

Excavations near streets. Sept. 14, 1869.

79. Any person who shall make any excavation, or hereafter increase any excavation near any street or public way in this city, so as to endanger any portion thereof, without first making written application to the mayor and aldermen, setting forth its nature and extent, and obtaining their consent, and requesting and obeying their instructions in the premises, shall be subject to a penalty not less than twenty nor exceeding one hundred dollars.

Further duties of street commissioner. Ord. March 10, 1877.

80. It shall be the duty of the commissioner of streets before purchasing new property of any kind for the city, or before procuring any repair or changes costing more than twenty-five dollars on property belonging to the city, to first obtain the approval in writing of the joint standing committee on streets, sidewalks and bridges; and all such purchases or repairs exceeding the sum of three hundred dollars shall first be authorized by vote of the city council, and any expenditure upon any street at any one time exceeding the cost of one hundred dollars in labor or materials shall first be authorized by said committee, and any such expenditure which will exceed the cost of three hundred dollars shall first be authorized by vote of the city council, and it shall be the duty of the commissioner of streets, when thereto requested,

to report to the said committee the number of men employed by him, the nature of each man's employment, and the amount of his wages; and the said committee is authorized to require the discharge from service of any individuals employed by the commissioner of streets, or reduce the rate of wages, if in the opinion of said committee the good of the city demands such discharge or reduction in pay.

To protect the public grounds of the city. Ord. Aug. 30, 1869.

81. No person shall remove any gravel, soil or material from any portion of the western promenade, the cemeteries, or any other public grounds within the city, without the consent of the mayor expressly given therefor. Any person violating this ordinance, shall be subject to a penalty of fifty dollars.

Lighting or extinguishing street lamps. Penalty. Ord. 1870, Dec. 30.

82. No person, without authority of the municipal officers, or from the Gas Light Company, shall light or extinguish any street lamp, under a penalty not less than five dollars, nor more than ten dollars for each offence.

Lamp posts, located and existing. Ord. May 1, 1871

83. All trees, lamp-posts, posts and hydrants, now placed and being within the limits of the streets of the city, are hereby declared to be and shall be taken to be legally established and located.

Lamp posts, how to be located. Ibid.

84. Lamp-posts, and posts for protecting them, may be located within the limits of any street of the city, by the joint committee of the city council on lamps and lamp-posts under existing ordinances, or by direction of the city council.

Lamp posts, how taken to be established. Ibid.

85. Any tree, lamp-post, post or hydrants, or any post for the protection of the same, shall be taken to be legally established within the limits of any street of the city, when it has been located therein by order or with approval of the mayor, or joint standing committee on streets, sidewalks, and bridges, or street commissioner.

Lamp posts recorded. Ibid.

86. When an order is given, under the provisions of this ordinance, it shall be recorded by the city clerk in a book provided for that purpose and kept in his office.

REGULATIONS RESPECTING THE LAYING OF GAS PIPES IN STREETS.

Regulations and restrictions in relation to the laying down and taking up of pipes and fixtures in and through the streets of the city by the Portland Gas Light Company, prescribed and established pursuant to the provisions of section third of the charter of said company, January 25, 1855.

Company to give notice to the commissioner of streets of commencement of work.

1. Said company before digging up the ground in any street, for the purpose of laying down, taking up, or repairing any gas pipes or fixtures, shall give notice in writing to the commissioner of streets of said city, of their intention so to do, specifying the street or streets, and the points of commencement and termination of their proposed works; and when said work is completed they shall give notice thereof in writing to said commissioner, who shall proceed immediately to examine into the manner said work has been done, and if the same has been done to his satisfaction, he shall certify the same to said company. But in searching for leaks or obstructions, or in repairing pipes that are leaking or in removing obstructions, the company is required to give the last named notice only.

Of completion. Street commissioner to examine same. Ibid. Ord. July 11, 1876.

Streets not to be dug up, &c. without consent of mayor and aldermen.

2. No street or sidewalk, or any part thereof, shall be dug up or broken into, for the purpose of laying service pipe, or setting lamp posts, between the first day of December and the fifteenth day of April of each year, without the permission of the mayor and aldermen, in writing, under a penalty of twenty dollars and a further penalty of twenty dollars for each

Penalties.

and every day or part of a day, that the work is in progress. Nor shall the streets, nor any part thereof, be dug up or broken into for the laying of main pipes, between the first day of November and the first day of May in each year, under a penalty of twenty dollars for each offence, and a further penalty of twenty dollars for every day or part of a day that the work shall be in progress, or the street remain broken as aforesaid. Nor shall any street or any part thereof be dug up or broken into before the gas pipes are prepared and placed in the vicinity ready to be laid down.

Streets not to be dug up, &c., before pipes are ready to be laid down. Rev. Ord. 1868.

3. Said company shall be liable for all damages occasioned by the digging up and opening any street, or obstructions therein by said company, as follows, viz: For all or any such works, done before the first day of November, they shall be liable for all damages occasioned thereby, for the space of sixty days from and after the approval certified as aforesaid by said commissioner, and for all or any such works done after said first day of November, they shall be so liable until the fifteenth day of June next following, of each year.

Liability of company for damages. Ibid.

4. All trenches left open after dark, shall, by said company, be safely railed or fenced in, and be sufficiently lighted to protect the public from damage or accident therefrom.

Trenches made to be fenced and lighted. Ibid.

5. Whenever any street, or any part thereof, is taken up for the purposes aforesaid, said company shall perform the work proposed to be done with all convenient dispatch, and as soon as the same is done they shall repair such street and put the same in as good condition as it was in before such taking up, and shall cause all surplus earth, stones, materials, and rubbish to be immediately removed from the street; and whenever such street, or any part thereof, or any pavement thereon, shall thereafter and within the time specified in section two, settle or become out of

Work to be done with convenient dispatch. Ibid.

Streets to be repaired.

Materials, rubbish, &c., to be removed.

Company to repair streets to satisfaction of commissioner.

In case of refusal, to be repaired at expense of company.

repair by reason of the works aforesaid, the said company shall thoroughly and completely repair the same, to the satisfaction of said commissioner of streets. In case said company refuse or neglect to repair the same, after one day's notice therefor by said commissioner, he shall proceed to repair the same at the expense of said company.

Restrictions respecting pipes laid in contact with drains or sewers.

Ibid.

Course of drain, &c. may be changed.

6. Whenever any of said pipes, in laying them down, shall come in contact or interfere with any drain or sewer, said pipes shall be laid under or over such drain or sewer, unless in the opinion of the committee on drains and sewers, it shall be necessary to change the direction of such drain or sewer, in which case the same shall be done by said company under the direction and to the satisfaction of said committee.

Superintendent of Burials.

[See chapters on CEMETERIES and HEALTH.]

Surveyor of Stone.

Ordinance.

1. One or more surveyors of stone to be appointed. To be sworn.
2. Duties.
3. Fees.

1. There shall annually be elected by the city council, one or more suitable persons as surveyors of granite, marble and free stone, who shall be sworn to the faithful performance of the duties of said office, and who shall continue in office, until removed or until a successor is elected and qualified.

One or more surveyors of stone to be appointed. To be sworn. Ord. May 30, 1859, § 1, and Rev. Ord. 1868

2. It shall be the duty of said surveyors to measure and inspect all granite, marble, free stone and other stone, for building or any other purposes, which they shall be requested to measure or inspect.

Duties. Ibid. § 2.

3. Said surveyors shall be entitled to demand and receive in full for their services the following rates, viz: Ten cents for each ton of marble, granite or free stone, thus measured or inspected by them.

Fees. Ibid. § 3.

Taxes.

Statutes.

1. Poll tax, on whom assessed.
2. Real and personal property taxable.
3. Real estate, what is included.
4. Real estate of railroads.
5. Personal property taxable described.
6. Polls and estates not taxed.
7. Mines exempted.
8. Aqueducts, pipes, &c., exempted.
9. Poll tax where assessed.
10. Real estate, where taxed.
11. Standing wood and timber, to whom assessed.
12. Landlord and tenant to pay equally.
13. Personal estate taxable where owner resides.
14. Exceptions.
15. Betterments on exempted lands.
16. Toll bridges, stock, where taxed.
17. Stock of gas or water companies.
18. Duties of assessors, &c., in this behalf.
19. Clerks failing to make returns.
20. Blood animals, how taxed.
21. Personal property of non residents.
22. Lien in favor of person paying the tax.
23. Remedy for person paying more than his proportion of tax.
24. Stock of companies invested, how taxed.
25. Mortgaged personal property, how taxed.
26. Real estate of one deceased, how taxed.
27. Partners' personal property.
28. Land may be assessed to owners or tenants.
29. Assessments to be continued on same person till notice given.
30. Property of certain manufacturing and mining corporations, where taxed.
31. Real estate of banks, and stock, where taxed.
32. Bank stock out of State.
33. Cashiers required to exhibit books.
34. Shares where residence of owner is unknown.
35. Collector to give notice.

36. Actions maintained by treasurer.
37. Supplementary assessments.
38. Treasurer of State to issue warrants for state tax.
39. What treasurer's warrant shall require.
40. Assessors to be governed by rules established.
41. Assessors responsible for faithfulness.
42. Collectors how chosen.
43. Collector's fees and travel.
44. Collector to receive a warrant.
45. Collector to give approved bond.
46. Collector or constable to give receipts on demand.
47. Collector to distrain if tax not paid, and to restore overplus.
48. Collector may imprison after twelve days notice.
49. And before if about to abscond.
50. Where payable in instalments when whole may be demanded.
51. Former collector to complete collections.
52. Collector may distrain shares in a corporation.
53. Duty of officers of the corporation.
54. Collectors may collect in any part of State.
55. Collectors in some cases may sue for taxes.
56. Assessments not void if they include sums for an illegal object.
57. Collections how made of non residents of improved lands.
58. Taxes on chattels of non residents.
59. Collector may demand aid.
60. Collector to exhibit account of collections once in two months.
61. Collector removing may be required to give up tax bills.
62. Collector refusing, penalty.
63. Collector, provision when he dies.
64. Sums overpaid to be restored.
65. State treasurer may issue warrant against delinquent treasurer.
66. Towns to pay when its collector fails to pay.
67. Assessors in such case to make new assessment.
68. Taxes may be collected by action of debt.
69. Additional way to collect state tax.
70. Time fixed for paying tax. Interest.
71. Election of assessors. Their duties. Interest on unpaid taxes.
72. Treasurer shall be collector of taxes.

Ordinances.

1. Advertisement of sale of real estate.
2. Treasurer to publish list of unpaid taxes over $20 yearly.
3. Assessors to deliver to treasurer tax bills.

4. Duty of treasurer and collector.
5. Interest on unpaid taxes.
6. Discount on taxes.
7. Repeal of inconsistent ordinances.

Poll tax, on whom assessed.

R. S., 1871, c. 6, § 1.

1. A poll tax[1] shall be assessed upon every male inhabitant of this state above the age of twenty-one years, whether a citizen of the United States, or an alien, in the manner provided by law, unless he is exempted therefrom by the provisions of chapter six of the Revised Statutes.

Real estate and personal taxable.

Ibid. § 2.

2. All real property[2] within this state, all personal property of the inhabitants of this state, and all personal property hereinafter specified of persons not inhabitants of this state, shall be subject to taxation as hereinafter provided.

Real estate what is included.

Ibid. § 3.

3. Real estate,[3] for the purposes of taxation, excepting, as provided in section six shall include all lands in this state and all buildings and other things erected on or affixed to the same, and all townships and tracts of land, the fee of which has passed from the state since the year one thousand eight hundred and fifty, and all interest in timber upon any of the public lands derived by permits granted by the state of Massachusetts, interest and improvements in land, the fee of which is in the state; and interest by contract or otherwise in land exempted from taxation.

Real estate of railroad corporations as non-resident land.

Track exempted.

Ibid. § 4.

See 1881, c. 91.

4. The real estate of railroad corporations[4] shall be taxable in the towns where it is, and be regarded as non-resident land; but the track of the road and the land on which it is constructed, shall not for this purpose, be deemed real estate.

[1] Poll tax; Littlefield v. Brooks, 50 Maine, 475; Hartland v. Church, 47 Maine, 169; Porterfield v. Augusta, 67 Maine, 556.

[2] U. S. statute 1864, c. 106, § 41, makes unlawful a tax on shares of a national bank located in another state. Abbott v. Bangor, 54 Maine, 540; Flint v. Aldermen of Boston, 99 Mass., 141; Packard v. Lewiston, 55 Maine, 456; Opinion of Justices, 53 Maine, 594.

[3] Real estate, see § 14, part second; B. & P. R. R. Co. v. Harris, 21 Maine, 533; Cum. Marine R. v. Portland, 37 Maine, 444. Boom taxable as real estate Hall v. Benton, 69 Maine, 346.

[4] P. S. & P. R. R. Co. v. Saco, 60 Maine, 196.

5. Personal estate[5] for the purposes of taxation, shall include all goods, chattels, moneys, and effects, wheresoever they are; all ships and vessels at home or abroad; all obligations for money or other property, money at interest, and debts due the persons to be taxed more than they are owing; all public stocks and securities; all shares in moneyed, railroad and other corporations within or without the state; all annuities payable to the person to be taxed, when the capital of such annuity is not taxed in this State; and all other property, included in the last preceding state valuation for the purposes of taxation; All the property of any religious society in this State, both real and personal, except its meeting-house and vestry and the furniture therein, and all parsonages not exceeding six thousand dollars in value and from which no rent is received.[6]

Personal estate taxable described. Ibid. § 5.

Property of religious societies. 1877, c. 217.

6. The following property and polls shall be exempted from taxation:

Polls and estate not taxed. Ibid. § 6.

First. The property of the United States and of this State.

Second. All property which by the articles of separation is exempted from taxation, the real and personal property of all literary institutions, and the real and personal property of all benevolent,[7] charitable and scientific institutions incorporated by this state.

Third. The household furniture of each person not exceeding two hundred dollars to any one family, his wearing apparel, farming utensils, mechanics' tools necessary for carrying on his business, and musical instruments not exceeding in value fifteen dollars to any one family.

Fourth. All houses of religious worship and the pews and furniture within the same, except for parochial purposes; and all tombs and rights of burial, and property held by a religious society as a parsonage.

Houses of religious worship exempt. Ibid. § 6. See § 5, *supra*. 1877, c. 217.

[5] Stetson v. Bangor, 56 Maine, 274; Abbott v. Bangor, *supra*; 105 Mass., 519; 106 Mass. 540, 58; 118 Mass., 169.

[6] For tax on savings banks see act 1875, c. 47, and Jones v. Savings Bank, 66 Maine, 242. For tax on dogs see title "DOGS," § 5. For tax on railroads see title "RAILROADS," and act 1881, c. 90. For State tax on express companies, see 1880, c. 244.

[7] Maine Bap. Convention v. Portland, 65 Maine, 92.

1874, c. 178.

Fifth. All mules, horses, neat cattle, swine and sheep, less than six months old, and all hay, grain and potatoes, orchard products, and wool owned by and in possession of producer.

Sixth. The polls and estates of all Indians; and the polls of persons under guardianship.

Seventh. The polls and estates of all persons who, by reason of age, infirmity, and poverty, are, in the judgment of the assessors, unable to contribute toward the public charges.

Eighth. The polls and estates of inhabitants of islands, on which there are no highways, may be exempted from the highway tax at the discretion of the town to which they belong.

Manufacturing establishments.
Ibid. § 6.

Ninth. All manufacturing[8] establishments, and all establishments for refining, purifying or in any way enhancing the value of any article or articles already manufactured, hereafter erected by individuals, or by incorporated companies, and all the machinery and capital used for operating the same, together with all such machinery hereafter put into buildings already erected, when the amount of capital invested exceeds the sum of two thousand dollars, are exempted from taxation for a term not exceeding ten years from the time the city or town in which such manufacturing establishments or refineries may be located, shall in a legal manner assent to such exemption which assent shall have the force of a contract and be binding for the time specified; but all property so exempted shall be entered from year to year upon the assessment books and returned with the valuation of the several towns and cities when required by the State for the purposes of making the State valuation.

Mines exempt.
1878, c. 29.

7. All mines of gold, silver, or of the baser metals, which are now or may be opened and in process of development, shall be exempt from taxation for a term of ten years from the time of such opening. This act shall not affect the taxation of the lands or the surface improve-

[8] It is for Legislature to determine what is exempted from taxation, Brewer Brick Co. v. Brewer, 62 Maine, 62; Farnsworth v. Lisbon, 62 Maine. 451; Portland v. Water Co., 67 Maine, 135. As to rule where part of property is exempt and part, taxable, see Cambridge v. County Commissioners, 114 Mass., 337.

ments of the same, at the same rate of valuation as similar lands and buildings in the vicinity.

8. The aqueducts, pipes and conduits of any corporation, engaged in supplying any city or town with water, shall be exempt from taxation, when any city or town shall take from the aqueducts, pipes or conduits of such corporation, water for the extinguishment of fires, without charge being made for the same. Nothing in this act shall be so construed as to include in this exemption the capital stock of such corporation, any reservoir or grounds occupied for the same, or any property, real or personal, owned by such company or corporation, other than as enumerated above.

Aqueducts, pipes &c. exempt. 1878, c. 33.

9. The poll tax[9] shall be assessed on each taxable person in the place where he is an inhabitant on the first day of April in each year. No person shall be considered an inhabitant of a place on account of residing there as a student in a literary seminary.

Poll tax, where assessed. R. S., 1871, c. 6, § 8.

10. All taxes[10] on real estate shall be assessed in the town where the estate lies, to the person who is the owner or in possession thereof on the first day of April in each year. In cases of mortgaged real estate, the mortgager, for the purposes of taxation, shall be deemed the owner, until the mortgagee takes possession, after which the mortgagee shall be deemed the owner.

Real estate, where taxed. Ibid. § 9.

11. Whenever the owner of real estate notifies the assessors that any part of the wood, bark and timber standing thereon has been sold by contract, in writing, and exhibits to them proper evidence thereof, they shall assess such wood, bark and timber to the purchaser thereof. A lien is created on such wood and timber, for the payment of such taxes; and may be enforced by the collector by a sale thereof when cut, as provided in section one hundred and four.

Standing wood and timber, to whom assessed. Ibid. § 10. 1881, c. 45.

Lien created thereon. R.S., 1871, c. 6, § 11.

12. When a tenant paying rent for real estate is taxed therefor, he may retain out of his rent half of the taxes paid by him; and when a landlord is assessed for such real estate, he may recover half of the taxes paid by him

Landlord and tenant to pay equally. Ibid. § 12.

[9] Hartland v. Church, *supra;* Parsons v. Bangor, 61 Maine, 457; 9 Gray 357.

[10] Hobbs v. Clements, 32 Maine, 67; Orland v. Ellsworth, 56 Maine, 47; Cum. M. Railway v. Portland, 37 Maine, 444.

and his rent in the same action against the tenant, unless there is an agreement to the contrary.

Personal estate taxable where owner resides.
Ibid § 13.

13. All personal property within or without this State, except in the cases enumerated in the following section, shall be assessed to the owner in the town where he is an inhabitant on the first day of April in each year.

Exceptions.

14. The exempted cases referred to in the preceding section are the following:

Goods, wares, merchandise and lumber.
Ibid. and 1881, c. 28.
For other provision about personal property by persons out of State, see 1871, c. 230, 1872, c. 23, 1876, c. 126.

First. All goods, wares and merchandise, all[11] logs, timber, boards and other lumber, and all stock in trade, including stock employed in the business of any of the mechanic arts, in any town within this State, other than where the owners reside, shall be taxed in such town if the owners, their tenants, or any person contracting under them for the building of any house, shop, store or vessel for such purposes, occupy any store, shop, mill, wharf, landing or ship-yard therein, for the purposes of such tenancy or contract.

Machinery and real estate of corporations.
R. S., 1871, c. 6, § 14.

Second. All machinery[12] employed in any branch of manufacture, and all goods manufactured or unmanufactured, and all real estate belonging to any corporation, shall be assessed to such corporation in the town or other place where they are situated or employed; and in assessing the stockholders for their shares in any such corporation, their proportional part of the value of such machinery, goods and real estate shall be deducted from the value of such shares.

Horses, cattle, &c.
Ibid.

Third. All mules,[13] horses, neat cattle, sheep, and swine shall be taxed in the town where they are kept on the first day of April, in each year, to the owner or person, who has them in possession at that time, all such animals, which are in any other town, than that in which the owner or possessor resides, for the purpose of pasturing or any other temporary purpose on said first day of

[11] Ellsworth v. Brown, 53 Maine 519; Waite v. Princetown, 66 Maine 225; Desmond v. Machiasport, 48 Maine, 478; 101 Mass. 329; 103, Mass. 278; 104, Mass. 586; Charlestown v. Co. Commr's, 109 Mass. 270.

[12] Cum. M. R. v. Portland, *supra.* As to Aqueduct Co. v. White Princetown, 100 Mass. 183. As to Gas Co. pipes see 12 Allen, 75; 60 Maine, 199.

[13] Hemmingway v. Machias, 33 Maine 445. As to street railway horses and other property, see 8 Allen, 330.

April, shall be taxed to such owner or possessor in the town where he resides, and all such animals, which are out of the State, or in any unincorporated place in the State on said first day of April, for any purpose, and being owned by, or in charge and possession of any person residing in any town in this State, shall be taxed to such owner or possessor in the town where he resides. If a town line so divides a farm that the dwelling house thereon is in one town, and the barn or out-buildings or any part of them is in another, such animals kept for the use of said farm, shall be taxed in the town where the house is.

Personal property of minors and wards.

Fourth. All personal property[14] belonging to minors under guardianship shall be assessed to the guardian in the place where he is an inhabitant. The personal property of all other persons, under guardianship, shall be assessed to the guardian in the town where the ward is an inhabitant.

Personal property of married women, held in trust.

Fifth. All personal property[15] held in trust by an executor, administrator, or trustee, the income of which is to be paid to any married woman or other person, shall be assessed to the husband of such married woman, or to such other person, in the place of which he is an inhabitant. But if such married woman, husband or other person resides out of the State, it shall be assessed to such executor, administrator, or trustee, in the place where he resides.

Funds in trust for heirs, &c.

Sixth. Personal property placed in the hands of any corporation as an accumulating fund for the future benefit of heirs or other persons, shall be assessed to the person for whose benefit it is accumulating, if within the State, otherwise to the person so placing it, or his executors, or administrators until a trustee is appointed to take charge of it or its income, and then to such trustee.

Personal property of deceased persons.

Seventh. The personal property of deceased persons[16] in the hands of their executors or administrators not distributed, shall be assessed to the executors or admin-

[14] 4 Allen, 402.

[15] 6 Allen, 277; 13 Allen, 267.

[16] 97 Mass. 321; 102 Mass. 348.

istrators in the town where the deceased last dwelt, until they give notice to the assessors, that said property has been distributed and paid over to the persons entitled to receive it. If the deceased at the time of his death did not reside in the State, such property shall be assessed in the town, in which such executors or administrators live.

Property held by religious societies. See § 6, item 4th.

Eighth. Personal property held by religious societies shall be assessed to the treasurer thereof in the town where such societies usually hold their meetings.

Personal property in another state or country, 1877, c. 182.

Ninth. Personal property in another state or country on the first day of April and legally taxed there.

Betterments on exempted lands. R. S., c. 6, § 15.

15. Betterments and improvements made upon such lands of literary institutions as are exempted from taxation, not including sites and buildings occupied by such institutions and their officers, shall be deemed personal property, and taxed to the tenant as owner thereof in the town where they are.

Toll bridges. Ibid. § 16. 1880, § 233.

16. The stock of all toll bridges shall be taxed as personal property, to the owners thereof, in the towns where they reside, except stock owned by persons residing out of the State, which shall be taxed in the town or towns where the bridge is located, and where such bridge is located in two towns one-half of such stock so owned by persons residing out of the State shall be assessed and taxed in each town.

Stock of corporation supplying gas or water. R. S., 1871, c. 6, § 17.

17. The stock in any local corporation, chartered for the purpose of supplying cities or towns with water or gas, held by any person out of the State or unknown shall be subject to taxation, in the city or town where such corporation is located or transacts its ordinary business, as provided for the taxation of bank stock, in section thirty-two of chapter six Revised Statutes.

Duties of assessors, &c. Ibid. § 18.

18. The powers of assessors, collectors and treasurers, and the liens on the stocks, shall be the same as provided in sections thirty-two, thirty-three, thirty-five and thirty-six of chapter six of Revised Statutes, and the duties therein imposed on cashiers, shall be performed by the treasurers of such corporations.

19. When a clerk of a corporation holding property liable to be taxed, fails to comply with the requirements of the twenty-first section of the forty-sixth chapter of Revised Statutes, whether the corporation was chartered before or since the separation of Maine from Massachusetts, such property for the purposes of taxation, shall be deemed corporate property, liable to be taxed to the corporation, although its stock has been divided into shares and distributed among any number of stockholders. Such property, both real and personal, is made taxable for state, county, city, town, school district, and parochial taxes, to be assessed and collected in the same manner and with the same effect as upon similar unexempted property owned by individuals. If the corporation is one which has the right to receive tolls, such right or franchise may be taken and sold on warrant of distress for payment of such taxes, the same as such property is taken and sold on execution.

Clerks failing to make returns. Ibid. § 19.

How taxable.

Franchise may be sold in certain cases.

20. Blood animals, brought into the State and kept for the purpose of improvement of the breed, shall not be taxed at a higher rate than stock of the same quality and kind bred in the State.

Blood animals. Ibid. § 20.

21. All goods, wares, merchandise, or other personal property, which, on the first day of April in each year, are within this State for the purpose of sale, and owned by persons residing out of the State, shall be taxed to the person or persons having them in possession for the purpose of sale.

Personal property of non-residents. Ibid. § 21.

22. Such person shall have a lien thereon, which he may enforce for the repayment of all sums by him lawfully paid in discharge of the tax. A lien is also created upon the property for the payment of the tax which may be enforced by the constable or collector to whom the tax is committed, by a sale of the property, as provided in R. S., 1871, chapter six, sections one hundred and six, one hundred and eleven and one hundred and twelve.

Lien in favor of person paying tax. Ibid. § 22.

23. If any person under the provisions of the foregoing section pays more than his proportionate part of the tax, or if his own goods or property are applied to the payment and discharge of the whole tax, he shall be entitled

Remedy for paying more than proportion of tax. Ibid. § 23.

to recover of the owner of the goods, wares, or merchandise, such portion of the whole tax, as would be such owner's proper share.

Stock of companies invested how taxed. Ibid, 24.

24. When an insurance or other incorporated company is required by law to invest its capital stock or any part thereof in the stock of a bank or banks, or other corporation in this State, for the security of the public, such investments shall not be liable to taxation except to the stockholders of the company so investing as making a part of the value of their shares in the capital stock of said company; and when the capital stock of any insurance company incorporated in this State, is taxed at its full value, the securities and pledges held by said company to the amount of said stock, shall be exempt from taxation; but if the pledge or security consists of real estate in a town other than that where the stockholders reside, it shall be taxed where it lies, and the stock shall be exempt to the amount for which it is assessed.

Mortgaged personal property how taxed. Ibid. § 25. 1878, c. 77.

25. When personal property[17] is mortgaged or pledged, it shall, for the purposes of taxation, be deemed the property of the party who has it in possession and may be distrained for the tax thereon. Money or personal property, loaned or passed into the hands or possession of another by any person residing in this State, secured by an absolute deed of real estate, shall be taxed to the grantee, the same as in case of a mortgage, although the land is taxed to the grantor or other person in possession.

Real estate of one deceased how taxed. R. S. 1871, c. 6, § 26.

26. The undivided real estate of any deceased person may be assessed to his heirs or devisees without designation of any of them by name until they give notice to the assessors of the division of the estate, and the names of the several heirs or devisees; and until such notice is given, each heir or devisee shall be liable for the whole of such tax, and have a right to recover of the other heirs or devisees their portions thereof when paid by him, and in an action of that purport the undivided shares of such heirs or devisees in the estate, upon which such tax has been paid, may be attached on mesne process, or taken on execution issued on judgment recovered in an action

[17] 10 Allen, 100; 2 Elliott v. Spinney, 69 Maine, 31.

therefor. Or such real estate may be assessed to the executor or administrator of the deceased, and such assessment shall be collected of them the same as taxes assessed against them in their private capacity, and shall be a charge against the estate and allowed by the judge of probate; but when such executor or administrator notifies the assessors that he has no funds of the estate to pay such taxes, and gives them the names of the heirs and the proportions of their interest in the estate to the best of his knowledge, the estate shall no longer be assessed to him.

Partners' personal property. Ibid. § 27. 1879, c. 120.

27. Partners[18] in mercantile and other business, whether residing in the same or different towns, may be jointly taxed, under their partnership name, in the town where their business is carried on, for all the personal property enumerated in the first paragraph of section fourteen, employed in such business; and if they have places of business in two or more towns, they shall be taxed in each town for the portion of property employed therein; excepting if any portion of such property is placed, deposited or situated in a town other than where their place of business is, under the circumstances specified in the first paragraph of section fourteen, they shall be taxed therefor in such other town; and in these cases they shall be jointly and severally liable for such tax.

Lands may be assessed to owners or tenants. R. S. c. 6. § 28.

Part owner may be taxed and pay separately.

28. All real estate,[19] and such as is usually called real, but is made personal by statute, may be taxed to the tenant in possession, or to the owner, whether living in the State or not, in the town where it is; and when a state, county or town tax is assessed on lands owned or claimed to be owned in common or in severalty, any person may furnish the collector, or treasurer, to whom the tax is to be paid, an accurate description of his part of the land, in severalty, or his interest, in common, and pay his proportion of such tax and thereupon his land or his interest shall be free of all lien created by such tax.

[18] Stockwell v. Brewer, 59 Maine, 286; 7 Gray, 128; 105 Mass. 519.

[19] Herriman v. Stowers 43 Maine, 497; Hartland v. Church, 47 Maine, 169; Winslow v. Morrill, 47 Maine, 411.

Assessments may continue to be made on same person till notice given.
Ibid. 29.

29. When assessors continue to assess real estate to the person to whom it was last assessed, such assessment shall be valid, though the ownership or occupancy has changed, unless previous notice is given of such change, and of the name of the person to whom it has been transferred or surrendered; and a tenant in common, or joint tenant, may be considered sole owner for the purpose of taxation, unless he notifies the assessors what his interest is.

Property of certain corporations for manufacturing, &c. where taxed.
Ibid. § 30.
1878. c. 47.

30. The buildings, lands, and other property of manufacturing, mining and smelting corporations, made personal property by their charters, and not exempt from taxation, and all stock used in factories, shall be taxed to the corporations, or to the persons having possession of their property or stock, in the town or place where the corporations are established, or the stock is manufactured; and there shall be a lien for one year on such property and stock for the payment of such tax, and it may be sold for the payment thereof as in other cases; and the shares of the capital stock of such corporations shall not be taxed to their owners.

Real estate of banks where taxed.
R. S. 1871. c. 6. § 31.

31. All real property[20] in this State, owned by any banks incorporated by the laws of this State, or by any national banks or banking associations, shall be taxed in the place where the property is situated, to said bank or banking association, for state, county and municipal taxes, according to its value, as other real estate is taxed; but the stock of such banks shall be taxed to the owners thereof where they reside, if known to be residents of this State; but the taxation of shares in such banks shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of the State.

Stock of banks where taxed.
Ibid.

Bank Stock out of State.
Ibid. § 32.

32. The stock[21] of any bank held by persons out of the State or unknown, and that has not been certified according to the provisions of chapter forty-six, section twenty-one, of the Revised Statutes, in any city, or town

[20] Stetson v. Bangor, *supra*, and cases cited.

[21] Shares in National Banks are taxable at their market value without deduction on account of investments of the Bank in U. S. securities; 3 Wallace, 573; 23 Wallace, 480; see 14 Allen, 359; 99 Mass. 141.

in this State, and is not there assessed; and the stock of any bank appearing by the books thereof to be held by persons residing out of the State, or whose residence is unknown to the assessors, shall be assessed in the town where such bank is located, or transacts its ordinary business; and such city or town shall have a lien from and after the date of such assessment on such stock and all dividends thereon, until such tax and any cost or expenses arising in the collection thereof are paid. No assignment, sale, transfer or attachment shall pass any property in such stock unless the vendee first pays such tax and costs; and the cashiers of banks are required to return to the assessors of the town where such bank is located or transacts its business, all the stock in such bank not returned to the assessors or other towns, according to the provisions of said section twenty-one, chapter forty-six; and such returns shall be made at the time and in the manner prescribed in said section, and shall be made the basis of taxation of such property.

Cashiers required to exhibit books. Ibid. § 33.

33. The cashier or other officer of each bank, is hereby required to exhibit on demand, to the assessors of any town all the books of such bank that contain any record of the stock of such bank or any dividend declared or paid thereon, and if requested, shall deliver to them a true and certified copy, of so much of said record as they may require. Should any cashier neglect or refuse to perform the duties required by this and the preceding section, the assessors may doom such bank in such sum as they deem reasonable, and the assessment shall bind the bank, and the tax thereon shall not be abated, and such cashier shall be liable for such neglect or refusal, to the penalty prescribed in section twenty-three, chapter forty-six, of the Revised Statutes.

Deliver certified copy of dividend.

Shares to be taxed in the town where bank is located when residence of holder is unknown or out of the state.

34. When returns of stock in the banks and national banking associations are made according to the provisions of section twenty-one of chapter forty-six, or the preceding section, if it be found by the assessors of any town receiving such returns that the holders of such stock do not reside in such town, they shall within fifteen days return the names of such stockholders, with the amount

Ibid. § 34. 1879. c. 139.

of stock held by them, to the assessors of the town where such stockholders reside, if their residence is known, and within the State; and if not, such return shall be made to the assessors of the town where the bank is located, and shall be subject to the provisions of section thirty-two.

Collector of taxees to give notice. R. S. 1871. c. 6. § 35. No dividend paid till tax is paid. Tax charged in offset.

35. The collector of any town to whom has been committed a tax upon the stock of any banks, shall, within thirty days after the bills of assessment are delivered to him, cause a notice in writing to be delivered to the cashier or president of such bank, stating the description of stock taxed, to whom assessed, if stated in the bills, and the tax thereon. No dividend shall be paid on such stock after such notice until the tax and any cost thereon are paid. The cashier may pay such tax, and payment shall constitute a lawful charge in offset againt any dividend thereon. Should such tax remain unpaid ninety days after such notice, the collector may sell such stock in the manner specified in sections one hundred and ten, and one hundred and eleven of chapter six of the Revised Statutes. For the purpose of collecting taxes on bank stock, collectors may act in any city, town or plantation in this State.

Powers of collectors extended.

Actions maintained by treasurers of towns and cities. Ibid. § 36.

36. The treasurer of any town, and any successor in office, may maintain an action on the case against any bank, and recover therein the tax assessed if unpaid, and the lawful charges upon any share thereof, if there has been paid after such tax was assessed any dividend thereon; but judgment shall not be rendered in such action for a larger sum in damages than the dividend thus paid, and all such taxes and charges may be recovered in one suit, if said treasurer so elects.

Supplementary assessments may be made to correct mistakes. Ibid. § 37.

37. When any assessors, after completing the assessment of a tax, discover that they have by mistake omitted any polls or estate liable to be assessed, they may, during their term of office, by a supplement to the invoice and valuation, and the list of assessments, assess such polls and estates their proportion of such tax according to the principles on which the assessment was made, certifying that they were omitted by mistake. Such supplemental assessments shall be committed to the collector

with a certificate under the hands of the assessors, stating that they were omitted by mistake, and that the powers in their previous warrant, naming the date of it, are extended thereto; and the collector shall have the same power, and be under the same obligations to collect them, as if they had been contained in the original list; and all assessments shall be valid, notwithstanding that by such supplement the whole amount exceeds the sum to be assessed by more than five per cent., or alters the proportion of tax allowed by law to be assessed on the polls.

Treasurer of State to issue warrants for state tax. Ibid. § 38. 1880. c. 239.

38. When a state tax is ordered by the legislature, the the Treasurer of State shall forthwith send his warrants directed to municipal officers of each town or other place in this State, requiring them to assess upon the polls and estates of each, its proportion of such state tax for the current year; and shall in like manner send like warrants for the state tax for the succeeding year, forthwith upon the expiration of one year from the time such tax is so ordered. The tax for each year shall be separately ordered and apportioned; and the amount of such proportion shall be stated in the warrants.

What treasurer's warrant requires. R. S. c. 6, § 39.

39. The treasurer, in his warrant, shall require said officers to make a fair list of their assessments, setting forth in distinct columns against each person's name, how much he is assessed for polls, how much for real estate, and how much for personal estate, distinguishing any sum assessed to such person as guardian, or for any estate in his possession as executor, administrator, or trustee; to insert in such list the number of acres of land assessed to each non-resident proprietor, and the value at which they have estimated them; to commit such list, when completed and signed by a majority of them, to the collector or collectors, constable or constables of such town or other place, with their warrant or warrants in due form of law, requiring them to collect and pay the same to the treasurer of state, at such times as the legislature within the act authorizing such tax, directed them to be paid; and to return a certificate of the names of such officers, and the amount so committed to each, one month at least before the time at which they are required to pay in such tax.

Assessors to be governed by the rules established. Ibid. § 40. 1876. c. 91. Poll tax how assessed, &c.

40. In the assessment of all state, county, town, plantation, parish or society taxes, the assessors thereof shall govern themselves by the rules contained in this chapter, until otherwise provided by the legislature, except in parishes and societies where different provision for assessing their taxes is made; and shall assess on the taxable polls therein such part of the whole sum to be raised as they may deem expedient; but the whole poll tax assessed in one year upon an individual for town, county and state purposes, except highway taxes separately assessed, shall not exceed three dollars. The same rule shall be observed in the assessment of highway taxes; and the residue of such taxes shall be assessed on the estates according to their value.

Assessors responsible for personal faithfulness only. R. S. 1871. c. 6, § 41.

41. The assessors of towns, plantations, school districts, parishes and religious societies, shall not be responsible for the assessment of any tax which they are by law required to assess; but the liability shall rest solely with the corporations for whose benefit the tax was assessed, and the assessors shall be responsible only for their own personal faithfulness and integrity.

Collectors how chosen. Ibid. § 97. 1874, c. 223.

42. When towns[22] choose collectors, they may agree what sum shall be allowed for the performance of their duties; but if none are chosen, or if those chosen refuse to serve or give the requisite bonds, the assessors may appoint a suitable person to act as constable and collector for the collection of taxes, and in case the person so appointed refuses to serve or give the requisite bond, then they may appoint one of their board to act as constable and collector for the collection of taxes.

Fees and travel of collectors. R. S. 1871. c. 6, § 98.

43. In case of distress or commitment for the non-payment of taxes, the officer shall have the same fees which sheriffs have for levying executions, saving that the travel, in case of distress, shall be computed only from the dwelling house of the officer to the place where it is made.

[22] Payson v. Hall, 30 Maine, 319; Smith v. Titcomb, &c. 31 Maine, 272; Crowell v. Whittier, 39 Maine, 530.

Collector to receive a warrant. Ibid. § 99.

44. Every collector or constable, required to collect taxes, shall receive a warrant from the selectmen or assessors of the kind hereinbefore mentioned, and shall faithfully obey its directions.

To give approved bond. Ibid. § 100.

45. The assessors shall require such constable or collector to give bonds for the faithful discharge of his duty, to the inhabitants of the town, in such sum, and with such sureties as the municipal officers approve, and bonds of collectors of plantations shall be given to the inhabitants thereof, approved by the assessors, with like conditions.

Constables or collectors to give receipt on demand. Ibid. § 101.

46. When tax is paid to a collector or constable, he shall give a receipt therefor on demand and if he neglects or refuses so to do, he shall forfeit five dollars to the aggrieved party, to be recovered in an action of debt. A collector or his administrator may sue in his own name.

Collector may sue in his own name. 1880. c. 206. See also 1871, c. 71.

47. If any person[22] refuses to pay the whole or any part of the tax assessed against him in accordance with the provisions of this chapter, the constable, collector, or other person whose duty it is to collect the same, may distrain him by any of his goods and chattels, not by the law exempt, for the whole or any part of his tax, and keep such distress for the space of four days at the expense of his owner, and if he does not pay his tax within that time the distress shall be openly sold at vendue by the officer for its payment. Notice of such sale shall be posted up in some public place in the town, at least forty-eight hours before the expiration of said four days. The officer, after deducting the tax and expense of sale, shall restore the balance to the former owner, with a written account of the sale and charges.[23]

Collectors to distrain if tax not paid. R. S. c. § 104.

Overplus to be restored. Ibid. § 105.

48. If a person so assessed, for the space of twelve days after demand, refuses or neglects to pay his tax and to show the constable or collector sufficient goods and chattels to pay it, he may arrest and commit him to jail, till he pays it, or is discharged by law.

After twelve days notice collector may imprison. Ibid. § 106.

[22] Scarborough v. Parker, 53 Maine, 252; Bethel v. Mason, 55 Maine, 501.

[23] Seekins v. Goodale, 61 Me. 400; Brackett v. Vining, 49 Me. 356; Blanchard v. Dow, 32 Me. 557.

And before if about to abscond.
Ibid. § 107.

49. If the assessors think there are just grounds to fear that any person so assessed may abscond before the end of said twelve days, the constable or collector may demand immediate payment, and on refusal, he may commit him as aforesaid.

When payable in installments, whole may be demanded of one about to remove.
Ibid. § 108.

50. When tax is made payable by installments and any person, who was an inhabitant of the town at the time of making such tax, and assessed therein, is about to remove therefrom before the time fixed for any payment the collector or constable may demand and levy the whole tax, though the time for collecting any installment has not arrived; and in default of payment he may distrain for it, or take the course provided in section one hundred and six.

Former collector to complete collections.
Ibid. § 109.

51. When new constables or collectors are chosen and sworn before the former officers have perfected their collections, the latter shall complete all their collections as if others had not been chosen and sworn.

May distrain shares in a corporation.
Ibid. § 110.

52. For non-payment[24] of taxes, the collector or constable may distrain the shares owned by the delinquent in the stock of any corporation; and the same proceedings shall be had as when like property is seized and sold on execution.

Duties of officers of the corporation.
Ibid. § 111.

53. The proper officers of such corporation, on request of such constable or collector, shall give him a certificate of the shares or interest owned by the delinquent therein, and issue to the purchaser certificates of such shares according to the by-laws of the corporation.

Collector may collect in any part of state.
Ibid. § 112.

54. When a person taxed in a town, in which he was living at the time of assessment, removes therefrom before paying his tax such constable or collector may demand it of him in any part of the State, and if he refuses to pay it he may distrain him by his goods, and for want thereof may commit him to the jail of the county where he is found, to remain until his tax is paid. And he shall have the same power to distrain property and arrest the body in any part of the state, as in the place where the tax is assessed.

[24] Farnsworth Co. v. Rand, 65 Maine, 19; Caldwell v. Hawkins, 40 Maine 526.

55. When a person duly taxed in any town or parish, dies before its payment, or removes therefrom to any other town or place in the State; and when an unmarried woman duly taxed as aforesaid, intermarries before the payment thereof, the constable or collector may sue for the tax in his own name, and recover it in an action of debt; but shall recover no costs, unless he demanded it before bringing the action.

In what case collector may sue for taxes.

Ibid. § 113.

See § 68, *post*, providing for action of debt.

56. If any money not raised for a legal object, is assessed with other moneys legally raised, the assessment shall not be void nor shall any error, mistake, or omission by the assessors, collector, or treasurer, render it void; but any person paying said such tax, may bring his action against the town in the Supreme Judicial Court for the same county, and shall recover the sum not raised for a legal object, with twenty-five per cent. interest and costs, and any damages he has sustained by reason of the mistakes, errors or omissions of such officers.[25]

Assessments not void if includes sums for an illegal object.

Ibid. § 114.

57. When the owner of improved lands living in this state, but not in the town where the estate lies, is taxed, and neglects for six months after the lists of assessment are committed to an officer for collection, to pay his tax, such officer may distrain him by his goods and chattels, and for want thereof, commit him to jail in the county where he is found or after two months written notice, he may sue him for such tax in his own name in an action of debt.[26]

Collections how made of non-residents of improved land.

Ibid. § 115.

58. When the owner or possessor of goods, wares, merchandise, horses, mules, neat cattle, sheep or swine, resides in any other town than the one in which such personal property is kept and taxed, the constable or collector having a tax on such animals for collection may demand it of such owner or possessor in any part of the State, and on his refusal to pay it may distrain him by his goods, and for want thereof, may commit him to jail in the

Taxes on chattels of non-residents.

Ibid. § 116.

1871, c. 192.

[25] Hathaway v. Addison, 48 Maine, 440; Look v. Industry, 51 Maine, 375.

[26] For law with regard to collection of taxes on real estate of resident owners, see R. S. 1871, c. 6, § 167, *et seq.* and act 1881, c. 1; and with regard to assessment of taxes in incorporated places see R. S. 1871, c. 6. § 60, *et seq.* and acts 1880, c. 239, 1881, c. 71; and 61 Maine, 552; 57 Maine, 277; 53 Maine, 505; 63 Maine, 311: 112 Mass. 218; 6 Pick. 98.

county where he is found till he pays it or is discharged by law.

Collector may demand aid. R. S. 1871, c. 6, § 117.

59. Any collector impeded in collecting taxes, in the executions of his office, may require proper persons to assist him in any town where it is necessary, and any person refusing when so required, shall, on complaint, pay not exceeding six dollars at discretion of the justice before whom the conviction is had, if it appears that such aid was necessary; and in default of payment, the justice may commit him to jail for forty-eight hours.

Collectors to exhibit account of collections once in two months. Ibid. § 118.

60. Every collector of taxes shall once in two months at least exhibit to the municipal officers, and where there are none, to the assessors of his town, a just and true account of all moneys received on the taxes committed to him, and produce the treasurer's receipts for money by him paid; and if he neglects to do so, he shall forfeit to the town two and a half per cent. on the sums committed to him to collect.

Collectors removed, or about to remove may be required to give up tax bills. Ibid. § 119.

61. When a collector having taxes committed to him to collect, has removed; or in the judgment of the municipal officers, assessors or treasurer of a town or committee or treasurer of a parish, is about to remove out of the state before the time set in his warrants to make payment to such treasurers; or when the time has elapsed, and the treasurer has issued the warrant of distress, in either case, said officers or committee of the parish, may call a meeting of such town or parish, to appoint a committee to settle with him for the money he has received on his tax bills, demand and receive of him such bills and discharge him therefrom, and said meeting may elect another constable or collector; and the assessors shall make out a new warrant and deliver it to him with said bills, to collect the sums due thereon, and he shall have the same power in their collection as the original collector.

Penalty for refusing to deliver tax bills. Ibid. § 120.

62. If such collector or constable refuses to deliver the bills of assessment, and pay all moneys in his hands, collected by him, when duly demanded of him, he shall pay two hundred dollars to the use of the town or parish as the case may be, and be liable to pay what remains due on said bills of assessment.

When collector dies.
Ibid. § 121.

63. When a constable or collector of taxes dies, becomes insane, has a guardian, or by bodily infirmities, is incapable of doing the duties of his office before completing the collection, the assessors may appoint some suitable person a collector to perfect such collection, and grant him a warrant for the purpose; and he shall have the same power as the disqualified collector or constable; but no person shall be so appointed without his consent; and in these cases, the assessors may demand and receive the tax bills of any person in possession of them, and deliver them to the new collector.

Sums overpaid to be restored.
Ibid. § 122.

64. When it appears that such insane or disqualified constable or collector had paid to the treasurer a larger sum than he had collected from the persons in his list, the assessors in their warrant to such new constable or collector, shall direct him to pay such sum to the guardian of such insane, or to such disqualified constable or collector.

State treasurer may issue warrant against delinquent treasurer.
Ibid. § 123.

65. The state treasurer shall issue a warrant of distress, signed by him, against any constable or collector, to whom a tax has been committed for collection, who is negligent in paying into the public treasury the money required within the time limited by law; and direct it to the sheriff of the county in which such negligent officer lives or to his deputy, returnable in sixty days from its date, to cause the sum due to be levied, with interest thereon from the day fixed for the payment, and fifty cents for the warrant, by distress and sale of such deficient officer's real or personal estate, returning any overplus there is, and for want thereof, to commit him to jail till he pays it; and the sheriff is bound to obey such warrant; warrants not satisfied may be renewed for the amount unpaid to be of like validity, and executed in like manner.

Towns to pay when its collector fails to pay.
Ibid. § 126.

66. If a deficient constable or collector has no estate which can be distrained, and his person cannot be found within three months after a warrant of distress issues from the state treasurer; or if being committed to jail, he does not within three months satisfy it, his town shall, within three months after said three months, pay to the state treasury, the sums due from him.

67. The assessors having written notice from such treasurer of the failure of their constable or collector,

Assessors in such case to make new assessment. Ibid. § 127.

shall forthwith, without any further warrant, assess the sum so due upon the inhabitants of their town as the sum so committed was assessed, and commit it to another constable or collector for collection; and if they neglect so to do, the treasurer of the State shall issue his warrant against them for the whole sum due from such constable or collector, which shall be executed by the sheriff or his deputy, as other warrants issued by such treasurer. If after such second assessment the tax is not paid to the treasurer within three months from the date of the commitment, the treasurer may issue his warrant to the sheriff of the county requiring him to levy it on real and personal property of any inhabitants of the town, as hereinbefore provided.

Taxes may be collected by action of debt by town. 1874, c. 232.

68. In addition[27] to the methods now provided by law for the collection of taxes legally assessed in towns against the inhabitants thereof, or parties liable to taxation therein, an action of debt may be commenced and maintained in the name of the inhabitants of any town to which a tax is due and unpaid, against the party liable for such tax; provided, however, that no defendant in any such action shall be liable for costs of suit, or any part thereof, unless it shall appear by the declaration in the writ and proof, that payment of said tax had been duly demanded prior to the commencement of such suit.

Additional way to collect state tax on any corporation. 1876, c. 115.

69. In addition to any remedies now provided by law for the collection of state taxes upon any corporation, such taxes may be recovered by an action of debt, or an action on the case in the name of the State, which action may be brought in any county where such corporation has its place of business, or where the action is against a railroad corporation in any county, where such railroad corporation owns or operates any railroad line or track. The remedies provided by this act may be used for the collection of any such tax heretofore assessed.

Time fixed for paying tax; interest. Act 1876, c. 92.

70. Whenever a city or town has fixed a time within which taxes assessed therein shall be paid, such city, by its city council, and such town, at the meeting when

[27] This statute of 1874, c. 232 construed. Bulfinch v. Benner, 64 Maine, 404; York v. Goodwin, 67 Maine, 260; Vassalborough v. Smart, 70 Maine, 303.

money is appropriated or raised, may vote that on all taxes remaining unpaid after a certain time, interest shall be paid at a specified rate, not exceeding one per centum per month; and the interest accruing under such vote or votes shall be added to, and be a part of such taxes.

71. The assessors shall continue to be elected on the second Monday in March. At the first election thereof under this act, three persons shall be elected assessors, one of whom shall be elected for one year, one for two years, and one for three years; and at each subsequent election one assessor shall be elected for three years, each of whom shall continue in office until some other person shall have been elected and qualified in his place. The city council shall elect an assistant assessor in each ward, whose duty it shall be to furnish the assessors with all the necessary information relative to persons and property taxable in his ward; he shall be sworn or affirmed to the faithful performance of his duty. All taxes shall be assessed, apportioned and collected in the manner prescribed by the laws of this State relative to town taxes, except as herein modified; and the city council may establish further or additional provisions for the collection thereof and of interest thereon.

Election of assessors. Their duties. City charter, § 8.

Interest.

72. The treasurer of the city of Portland shall also be the collector for said city, with all the powers of collector of taxes under the laws of this State. All warrants directed to him by the assessors and municipal officers shall run to him and his successors in office, and shall be in the form prescribed by law, changing such parts only as by this act are required to be changed. The method of keeping, vouching and settling his accounts, shall be subject to such rules and regulations as the city council may establish. Said treasurer and collector shall collect all such uncollected taxes and assessments in whatever year assessed as may be collected during his term of office; and at the expiration of said term, his powers as collector shall wholly cease; all sales, distresses, and all other acts and proceedings, lawfully commenced by him as such treasurer and collector, may be as effectually continued and completed by his successor in office as though

Treasurer shall be collector of taxes. Ibid. § 20.

done by himself; and all unreturned warrants, which would otherwise be returnable to him, shall be returned to his successor in office.

Ordinances.

1. All notices of advertisements of sales of real estate for non-payment of taxes, by the treasurer and collector, or his deputies, in addition to the notices now required by law, shall be published in one of the daily papers of the city, three times successively, previous to the day of sale.

Advertisement of sale of real estate.
Ord. Sept. 15, 1880, § 1.

2. It shall be the duty of the city treasurer and collector, between the first and fifteenth day of March, annually, to publish in one of the daily newspapers in the city, a list of all the taxes assessed upon residents amounting to twenty dollars and upwards, then remaining unpaid in the bills committed to him, together with the names of the persons assessed therefor.

Publication by treasurer.
Ibid. § 2.

3. It shall be the duty of the assessors to make out and deliver to the Treasurer and Collector at the time of the commitment of the warrant for the collection of taxes in each year, tax bills for all taxes assessed upon all resident persons and estates, with the name and residence of the same marked thereon.

Duty of assessors.
Ibid. § 3.

4. The Treasurer and Collector shall immediately issue the tax bills, and if the same are not paid on or before the thirty-first day of December next succeeding the date of the commitment of said bills to him, he shall issue a summons to each delinquent person assessed, and if such person shall not pay his taxes within ten days after the receipt of such summons, or after the service thereof in the usual form, the said Treasurer and Collector shall issue his warrant for the collection of said taxes according to law.

Duty of treasurer and collector.
Ibid. § 4.

5. On all taxes assessed, interest shall be charged at the rate of six per cent. per annum, commencing

Interest.

on the first day of November next succeeding the commitment of said bills to the Treasurer and Collector. Ibid. § 5.

6. On all taxes paid on or before the thirty-first day of October next succeeding the date of the commitment thereof, a discount of three per cent. on the same will be allowed. Discount. Ibid. § 6.

7. All ordinances and parts of ordinances inconsistent with this ordinance are hereby repealed. Repeal. Ibid. § 7.

Tramps.

Statutes.

1. Begging prohibited.
2. Tramp defined. Penalty.
3. Fees of officers, &c.
4. Tramps to be punished.
5. Tramp entering a building, &c. Penalty.
6. Tramp injuring a person. Penalty.
7. Evidence.
8. Who may arrest tramps.
9. Special constables.
10. Females and minors.
11. Advertisement.
12. Penalties.

Begging prohibited. 1878, c. 78.

1. No person not a resident of this state, shall travel from town to town, or from place to place in any town, begging for food or shelter, nor shall such person sleep or lodge in any barn or other building without the consent of the owner thereof.

Tramp defined.

2. Any person violating the provisions of the foregoing section shall be deemed a tramp, and on complaint of any resident of this State, made before any trial justice or municipal or police court, may be arrested on a warrant issued therefor, or may be arrested by any constable or other officer and detained not exceeding twenty-four hours until such warrant can be obtained; and upon trial and conviction, such justice or court may sentence him to pay a

Penalty.

fine of twenty dollars, and in default of payment, he shall be sent by said justice or court to the nearest county jail having a workshop attached, to be there confined at hard labor not less than four months for the first offense, and for any subsequent offense not less than six months.

Fees of officers.

3. The fees of officers and justices shall be the same as for arrest and trial of common vagrants, except that the officer's fees for commitment shall be one dollar and

a half for each day necessarily employed and actual expenses of transportation; all costs to be paid by the state, upon the order of the county commissioners, out of the state pauper fund; provided, the governor and council shall be satisfied the person confined is a tramp, having no pauper settlement in this State.

Tramps to be punished. 1880, c. 213.

4. If any person goes about from place to place begging and asking or subsisting upon charity, it shall be evidence that he is a tramp, and shall, upon conviction, be punished by imprisonment at hard labor in the state prison not more than fifteen months.

Tramp entering a building.

5. Any tramp who shall enter any dwelling house, or kindle any fire in the highway or on the land of another without the consent of the owner or occupant thereof, or shall be found carrying any fire arm or other dangerous weapon, or shall threaten to do any injury to any person, or to the real or personal estate of another, shall be punished by imprisonment at hard labor in the state prison not more than two years.

Injuring a person.

6. Any tramp who shall wilfully and maliciously do any injury to any person, or to the real or personal estate of another, shall be punished by imprisonment at hard labor in the state prison not more than five years.

Evidence.

7. Any act of beggary or vagrancy by any person not a resident of this State, shall be evidence that the person committing the same is a tramp, within the meaning of this act.

Apprehension of offender.

8. Any person, upon view of any offence described in this act, may apprehend the offender and take him before a trial justice, or judge of any municipal or police court having jurisdiction, for examination.

Special constables.

9. The mayor of every city and the selectmen of every town, are hereby authorized to appoint special constables, whose duty it shall be to arrest and prosecute all tramps in their respective cities and towns.

Females and minors.

10. This act shall not apply to any female or minor under the age of fourteen years, nor to any blind person.

Advertisement.

11. Upon the passage and approval of this act, the secretary of state shall cause printed copies of it to be sent

to the several city and town clerks, who shall cause the same to be posted in at least six conspicuous places, three of which shall be on the public highway.

Penalties.

12. All the provisions of this act for penalties and punishments by imprisonment in the state prison, shall be construed to authorize the courts imposing the sentence, to sentence tramps to the state prison for a shorter term than one year, in their discretion.

Trees.

Statutes.

1. Towns, cities and villages may make by-laws relating to trees.
2. Trees may be planted in public places.
3. Injury to trees. Penalty.

Ordinances.

1. Ornamental trees in streets, &c., not to be moved, except, &c. If horses, &c., mutilate or destroy, penalty.
2. Trees not to be injured, except by consent. Animals not to be fastened to trees. Penalties.
3. Duty of city marshal to prosecute. Fines collected to constitute a fund for replanting.
4. Trees, May 1, 1871, taken as legally established.
5. How legally located.
6. Records.

Statutes.

Towns, cities, and villages may make by-laws relating to trees in street. Act 1871, c. 178. R. S., 1871, c. 3, § 40. Ibid. c. 18, § 21. Trees not a defect in the street.

1. Towns, cities and village corporations may make such by-laws and ordinances as they deem proper, respecting the location and protection of trees, lamp posts, posts and hydrants, within the limits of their roads, ways and streets; and no trees, lamp posts, posts or hydrants which are now located or shall hereafter be located in accordance with the requirements of such by-laws and ordinances, shall be deemed a defect in such road, way or street.

Trees about burying lots. R. S., 1871, c. 18, § 49.

2. A sum not exceeding five per cent. of the amount committed to him, may be expended by a surveyor, under the direction of the municipal officers, in planting trees about public burying grounds, squares, and ways within his district, if the town by vote authorizes it.

Injury to trees. Penalty. R. S., 1871, c. 127, § 7. See whole of this section in reference to fences, &c.

3. Whoever wilfully and maliciously cuts down, destroys, or otherwise injures any shrub or tree for ornament or use, shall be punished by imprisonment less than one year, and by fine not exceeding one hundred dollars.

Ordinances.

Ornamental trees on streets, &c., not to be removed, &c., without consent of mayor and aldermen. Rev. Ord., 1868.

1. If any person shall remove, mutilate, or destroy any ornamental tree planted, or that may hereafter be planted, in any of the streets, alleys, squares, or other public places within the limits of the city, without a permit in writing from the mayor and aldermen, he shall pay a penalty of not less than five nor more than fifty dollars for each offence, according to the degree and aggravation of the offence, and if any owner or driver of any horse or other animal, shall suffer them to mutilate or destroy any tree as aforesaid, such owner or driver shall pay a like penalty for such offence.

Penalty if horses, &c., mutilate or destroy.

Trees shall not be injured without consent of mayor and aldermen. Ibid.

2. No person, except by permission of the mayor and aldermen, shall climb, break, peel, cut, deface, either by posting bills of any description, or otherwise, remove, injure or destroy any of the trees growing, or which shall hereafter be planted, on the walks or promenades, or in the streets or public places of the city; and no person shall in any way fasten any horse or other animal to any of said trees, or allow any animal owned by him or under his control, to stand so near to the same that they may be gnawed or otherwise injured by any horse or other animal so fastened or permitted to stand. Any person violating any of the provisions of this section, shall be liable to a penalty of not less than five nor more than fifty dollars for each offence.

Horses and animals shall not be fastened to.

Shall not injure.

Penalties.

Duty of city marshal to prosecute. Ibid.

3. It shall be the duty of the city marshal to prosecute all violations of this ordinance, and the fines and forfeitures thus collected, shall constitute a fund for replanting of such trees as have been thus removed or destroyed.

Fines, &c., collected to constitute fund for replanting trees.

Trees &c., taken to be legally established. Ord. May 1, 1871.

4. All trees, lamp-posts, posts and hydrants, now placed and being within the limits of the streets of the city, are hereby declared to be and shall be taken to be legally established and located.

5. Any tree, lamp-post, post or hydrants, or any post for the protection of the same, shall be taken to be legally established within the limits of any street of the city, when it has been located therein by order or with approval of the mayor, or joint standing committee on streets, sidewalks, and bridges, or street commissioner.

See Lampposts.
How legally located.
Ibid.

6. When an order is given, under the provisions of this ordinance, it shall be recorded by the city clerk in a book provided for that purpose and kept in his office.

Record.
Ibid.

Vinegar.

Statutes.

1. Vinegar, adulteration prohibited.
2. Vinegar, use of bad ingredients in.
3. Municipal officers to appoint inspectors.

Adulteration of vinegar. Act 1881, c. 6. February 11, 1881.

1. Whoever manufactures for sale, or knowingly offers or exposes for sale, or knowingly causes to be branded or marked as cider vinegar, any vinegar not the legitimate product of pure apple juice, known as apple cider, and not made exclusively of said apple cider, but into which any foreign substances, ingredients, drugs or acids have been introduced, as shall appear by proper tests, shall, for each such offence, be punished by a fine of not less than fifty nor more than one hundred dollars.

Use of bad ingredients.

2. Whoever manufactures for sale, or knowingly offers or exposes for sale, any vinegar found, upon proper tests, to contain any preparation of lead, copper, sulphuric acid, or other ingredient injurious to health, shall, for each such offence, be punished by a fine of not less than one hundred dollars.

Inspectors.

3. The mayor and aldermen of cities shall, and the selectmen of towns may, annually appoint one or more persons to be inspectors of vinegar, for their respective places, who shall, before entering upon their duties, be sworn to the faithful discharge of the same.

Wards.[1]

Statutes.

1. City divided into seven wards.
2. Island ward.
3. Island ward made two wards as to election of certain officers.
4. Change in wards, must be approved by the legal voters.

Order of City Council.

1. Ward one.
   Ward two.
   Ward three.
   Ward four.
   Ward five.
   Ward six.
   Ward seven.
2. Not to take effect until ratified by legal voters.

Statutes.

1. The city shall remain divided into seven wards; and it shall be the duty of the city council, once in ten years or oftener, to revise, and if it be needful, to alter such wards, in such manner as to preserve, as nearly as may be, an equal number of voters in each. In each of said wards, at the annual municipal election, there shall be chosen by ballot, a warden and clerk, who shall hold their offices for one year from the Monday following their election, and until others shall have been chosen and qualified in their places. Said warden and clerk shall be sworn or affirmed to the faithful performance of their respective duties by any justice of the peace of the city; and a certificate of such oaths or affirmations having been administered, shall be entered by the clerk on the records of the wards. The warden shall preside at all ward meetings with the powers of moderators of town meetings. If

City divided into seven wards. City charter, § 11.

Wardens and clerks.

[1] For provisions as to election of ward officers, and voting in wards, see title "Elections," *ante*, and R. S. 1871, c. 4.

at any meeting the warden shall not be present, or shall refuse to preside, the clerk of such ward shall call the meeting to order and preside until a warden *pro tem.* shall be chosen. If both are absent, or shall refuse to act, a warden and clerk *pro tem.* shall be chosen. The clerk shall record all proceedings, and certify the votes given, and deliver over to his successor in office all such records and journals, together with all other documents and papers held by him in said capacity. The voters of each ward may choose two persons to assist the warden in receiving, sorting and counting the votes. All regular ward meetings shall be notified and called by warrant from the mayor and aldermen, in the manner prescribed by the laws of this State for notifying and calling town meetings by the selectmen of the several towns.

Ward meetings how called.

2. In addition to the seven wards, the several islands within the city of Portland are so far constituted a separate ward as to entitle the legal voters thereon to choose a warden, ward clerk, and one constable, who shall be residents on such islands. They shall hold their ward meetings on any one of the islands which a majority of the qualified voters residing on said islands may designate, and may, on the days of election, vote at the place designated for all officers named in the warrant calling the meeting. The warden shall preside at all meetings, receive the votes of all qualified electors present whose names are borne on the lists ; shall sort, count and declare the votes in open meeting and in the presence of the clerk, who shall make a list of the persons voted for, with the number of votes for each person, and a fair record thereof, in presence of the warden and in open meeting, and a copy of the list shall be attested by the warden and clerk, sealed up in open meeting, and delivered to the clerk of ward number one, within eighteen hours after the close of the polls, to become a part of the record of said ward ; and all votes thus thrown shall be deemed as thrown in and belonging to ward number one. All meetings of the voters of said island ward, for choice of municipal officers, shall, after the business of the meeting is transacted, stand adjourned for two days to determine

Island ward. Ibid. § 15.

See next section, making two island wards for certain purposes.

whether an election has been effected; and adjournments may be had, not exceeding two days at any one time, until the election has been effected. If the warden or clerk of said island ward shall be absent at any election, a warden or clerk may be chosen *pro tempore*. Or in case of a failure or omission to elect a warden or clerk, said officers may be chosen at any legal meeting duly called in said ward.

Islands to be in two wards for election of certain officers. R. S., 1871, c. 4, § 41, amended by Act 1879, c. 97.

3. The several islands[2] within the city of Portland, shall so far constitute two separate wards as to entitle the legal voters of each of said wards to choose a warden, ward clerk and one constable, who shall be residents on said islands and of their respective wards. The first of said wards shall comprise Long Island, Crotch Island, Hope Island, Jewell's Island and Little Chebeague Island, or such parts of said islands as are within the city of Portland, and the ward meetings of said first ward shall be holden on Long Island. The second of said wards shall comprise the remaining islands within the city of Portland, and the ward meetings of said second ward shall be holden on Peak's Island. The qualified electors of each of said wards may meet as provided in the thirty-ninth section of chapter four of Revised Statutes, and also for the choice of city officers, at the place designated, and may, on the day of election, vote for all officers named in the warrant calling the meeting.

Wards in cities, change in the limits of, how to be made. R. S. 1871, c. 3. § 24.

4. No change in the limits of any ward in any city by the action of the city council, shall be valid unless it is approved by a majority of the legal votes cast at the election of city officers, held next after such action of the city council; and the warrants for the ward meetings shall contain an article for that purpose.

Order of City Council.

PASSED FEBRUARY 19, 1872.

1. *Ordered*, That the present division of the wards of the city, made March 10, A. D. 1862, be changed, and that the following described lines be the boundaries of the same:

[2] See title "Elections."

Ward 1. Commencing at the harbor at a point parallel with the line of the centre of Waterville Street, thence on such line to the centre of Monument Street, thence on such line to the centre of Mountford Street, thence on such line across Congress Street to the centre of Washington Street and Back Cove Bridge to the channel of Back Cove, comprising all the city territory north and east of this line.

Ward 2. Commencing at the harbor at a point parallel with the line of the centre of India Street, thence through the Centre of India Street to Congress Street, thence through the centre of Congress Street to Locust Street, thence through the centre of Locust Street to Cumberland Street, thence through the centre of Cumberland Street to Boyd Street, thence through the centre of Boyd Street to the channel of Back Cove, comprising all the territory between this line and the before mentioned line of Ward One.

Ward 3. Commencing at the harbor at a point parallel with the line of the centre of Market Street, thence through the centre of Market Street to Congress Street, thence through the centre of Congress Street to a line parallel with the south west line of the lot of land on which the city and county buildings stand, thence on the southwest and northwest lines of said lot to Myrtle Street, thence through the centre of Myrtle Street to the channel of Back Cove, comprising all the territory between this line and the before mentioned line of Ward Two.

Ward 4. Commencing at the harbor at a point parallel with the centre of Maple Street, thence through the centre of Maple Street to Pleasant Street, thence through the centre of Pleasant Street to Oak Street, thence through the Centre of Oak Street to Congress Street, thence through the centre of Congress street to Casco Street, thence through the centre of Casco Street to Cumberland Street, thence through

the centre of Cumberland Street to Hanover Street, thence through the centre of Hanover street to the channel of Back Cove, comprising all the territory between this line and the before mentioned line of Ward Three.

Ward 5. Commencing at the harbor at a point parallel with the line of the centre of Park Street, thence through the centre of Park Street to Congress Street, thence through the centre of Congress street to State Street, thence through the centre of State Street across Portland Street to the creek that divides Portland and Deering, comprising all the territory between this line and the before mentioned line of Ward Four.

Ward 6. Commencing at the harbor, at a point parallel with the line of the centre of Clark Street, thence through the centre of Clark Street to Pine Street, across Pine Street to West Street, through the centre of West Street to Carleton Street, thence through the centre of Carleton Street to Congress Street, thence through the centre of Congress Street to Grove Street, thence through the centre of Grove Street to the line dividing Portland from Deering, comprising all the territory between this line and the before mentioned line of Ward Five.

Ward 7. Comprising all the territory southwest of the before named line of Ward Six.

2. *Ordered*, That the foregoing division of the city into seven Wards, shall be in force and take effect from and after the time that it shall have been approved by the legal voters of this city at Ward meetings held for the election of city officers.

(The division as above was approved by the lega voters, March 4, 1872.)

Watch and Ward.

[See revised Statutes, 1871, chapter 25.]

Water.

Statutes.

1. Portland Water Company. Purpose of.
2. Portland Water Company. Property of.
3. Portland Water Company. Powers of. Where to take water.
4. Portland Water Company. Liability to damages.
5. Portland Water Company. Capital Stock.
6. Portland Water Company. Rights of city in.
7. Portland Water Company. Same subject.
8. Portland Water Company. Liability for injury to property.
9. Portland Water Company. Authority to lay pipes, &c.
10. Portland Water Company. Same subject.
11. Portland Water Company. Water supply to Portland.
12. Portland Water Company. Power of city in the company.
13. Portland Water Company. Penalty for obstructing streets.
14. Portland Water Company. Penalty to any person for corrupting water, &c.
15. Portland Water Company. Erecting dams, &c.
16. Portland Water Company. Power of mayor and aldermen.
17. Portland Water Company. First meeting.
18. Portland Water Company. May issue bonds.
19. Portland Water Company. City may exempt from taxes. How long.
20. Portland Water Company. Contracts binding.
21. Portland Water Company. Same subject.
22. Portland Water Company. Court of Equity to compel performance.
23. Portland Water Company. Board of commissioners.
24. Portland Water Company. Time for completing work.

Ordinances.

1. Portland Water Company. Contract and consent of city with.
2. Portland Water Company. Permits.
3. Portland Water Company. When streets shall be broken into, &c.
4. Portland Water Company. Damages.
5. Portland Water Company. Control of street commissioner.
6. Portland Water Company. When work to be done.
7. Portland Water Company. Obstructions deemed nuisances.
8. Portland Water Company. When pipes are to be relaid at expense of company.
9. Portland Water Company. Penalty for injuring property of the company.

Statutes.

Act of Incorporation of the Portland Water Company. 1866, c. 159. Approved Feb. 23, 1866.

1. John B. Brown, St. John Smith, Samuel E. Spring, Rensselaer Cram, Rufus E. Wood, Jacob McLellan, and Dennis W. Clark, with their associates and successors, are hereby made a corporation by the name of the Portland Water Company, for the purpose of conveying to the City of Portland, a supply of pure water for domestic and municipal purposes, including the extinguishment of fires, the supply of shipping, and the use of manufacturing establishments.[1]

Purpose of corporation 1866, c. 159, § 1.

Property. Ibid. § 2.

2. Said corporation may hold real and personal estate necessary and convenient for the purpose aforesaid, not exceeding in amount one million dollars.

Powers, where to take water. Ibid § 3, and amendment of 1867, c. 364, § 3.

3. Said corporation is hereby authorized for the purposes aforesaid, to take and hold so much of the waters of Lake Sebago as may be necessary for the adequate supply of water for the City of Portland, and may also take and hold, by purchase or otherwise, any land or real estate necessary for erecting or maintaining dams and reservoirs, and for laying and maintaining aqueducts for conducting, discharging, distributing, and disposing of water, and for forming reservoirs thereof.

Liability to damages. Act 1866, c. 159.

4. Said corporation shall be liable to pay all damages that shall be sustained by any persons in their property by the taking of any land or mill privilege, or by flowage, or excavating through any land for the purpose of laying down pipes, building dams, or constructing reservoirs;

[1] This act by its terms took effect February 23, 1866.

and if any person sustaining damage, as aforesaid, and said corporation shall not mutually agree upon the sum to be paid therefor, such person may cause his damages to be ascertained in the same manner and under the same conditions, restrictions and limitations as are by law prescribed in the case of damages by the laying out of highways.

Capital stock. Ibid. § 5.

5. The capital stock of said company shall not exceed one million dollars, and shall be divided into shares of one hundred dollars each. Said capital stock shall be applied exclusively to the supply and distribution of water for the purposes set forth in this act.

Rights of city of Portland. Ibid. § 6, and 1867, c. 364, § 2.

6. At or after the expiration of six years from the date of acceptance of this act by said corporation, the city of Portland shall have the right to take, exercise and control all the property, rights, powers and privileges of said corporation, on paying to said corporation such sums as may be agreed upon by the city and said corporation; or in case they cannot agree upon the sum to be paid, such sum shall be fixed upon by three commissioners, who shall be appointed by the supreme court upon the application of said city, and who shall fairly appraise the property and rights of said company, and return their report thereof to the supreme judicial court in the county of Cumberland, which report, when accepted, shall be final and conclusive upon the parties, and the said court may make any orders or decrees, or issue any process, necessary to carry the same into effect.

Continued. 1866, c. 159.

7. If said corporation shall not be organized and its works put into actual operation within three years from the approval of this act, the city of Portland shall succeed to all the rights and privileges herein granted.

Liability for injury to private property. Ibid. § 8.

8. Nothing contained in this act shall be construed to affect or diminish the liability of said corporation for any injury to private property by depreciating the value thereof or otherwise, but said corporation shall be liable therefor in an action on the case.

Authority to lay pipes, &c. Ibid. § 9.

9. The said company are hereby authorized to lay down, in and through the streets of said city, and to take up, replace and repair, all such pipes, aqueducts, and fixtures as may be necessary for the objects of their

incorporation, first having obtained the consent of the city council therefor, and under such restrictions and regulations as said city council may see fit to prescribe; and any obstruction in any street of said city, or taking up, or displacement of any portion of any street without such consent of the city council, or contrary to the rules and regulations that may be prescribed as aforesaid, shall be considered a nuisance, and said company shall be liable to indictment therefor and to all the provisions of law applicable thereto; and said company shall, in all cases, be liable to repay to said city all sums of money that said city may be obliged to pay on any judgment recovered against said city for damages occasioned by any obstructions, or taking up, or displacement of any street by said company whatever, with or without the consent of the city council, together with the counsel fees and other expenses incurred by said city in defending any suit to recover damages as aforesaid, with interest on the same to be recovered in an action for money paid to the use of said company.

Same subject. Ibid. § 10.

10. Whenever the company shall lay down any pipes or aqueducts in any street, or make any alteration or repairs upon their works in any street, they shall cause the same to be done with as little obstruction to the public travel as may be practicable, and shall at their own expense, without unnecessary delay, cause the earth and pavement removed by them to be replaced in proper condition. They shall not be allowed, in any case, to obstruct or impair the use of any public or private drain, or common sewer, or reservoir; but said company shall have the right to cross, or where necessary, to change the direction of any private drain in such a manner as not to obstruct or impair the use thereof, being liable for any injury occasioned by any such crossing or alteration, to the owner thereof, or any other person, in an action upon the case.

Water to Portland. Ibid. § 11.

11. Said corporation shall furnish at all times, to the city of Portland, without expense to the city, for use in the

public buildings, school houses of the city, and for the extinguishment of fires, such amount of water as may be needful therefor; the necessary pipes and hydrants for distribution thereof for the purposes named in this section, being furnished, laid and connected with the pipes of this company at the expense of the city.

Power of city in the company. Ibid. § 12.

12. At any time after the organization of the corporation the city of Portland shall be authorized, upon a vote of the city council to that effect, to take and hold in the capital stock of the company an amount not exceeding one-half thereof, upon paying to the company a like proportional part of the cost up to such time of all their buildings, works, dams, reservoirs, pipes and other property, and ten per centum of such proportional part in in addition thereto. The amount so received by the company for the proportional part so taken by the city, shall be distributed and paid over to the other stockholders in proportion to their several interests, and the par value of the several shares held by them shall be reduced accordingly. The company shall at the same time create and issue to the city such a number of shares of the same par value, together with a fractional share, if necessary, as shall represent the whole amount paid by the city for the proportional part of the capital stock so taken; at all meetings of the stockholders of the company the shares held by the city shall be represented by such agent as the city council may, by vote from time to time, appoint, who shall be entitled to cast one vote for every share held by the city, and if said company shall neglect to comply with the provisions of this section for the space of one month after an offer and request from the mayor to that effect, all the rights and privileges of said company shall wholly cease and be of no effect; and in the event of a disagreement between the said company and the city as to the cost, up to the time of such offer, of the property of said company as herein before set forth, then upon application of said city the same shall be determined by commissioners appointed in the same manner as is provided in the sixth section of this act, whose report when accepted by the supreme judicial court shall be final and

conclusive as to the amount of cost up to such time of the property of said company.

13. If said company or any of their servants or officers employed in effecting the objects of the company shall willfully or negligently place or leave any obstruction in any of the streets of Portland, beyond what is actually necessary in constructing their works, laying down, taking up, and repairing their pipes and fixtures, or shall wilfully or negligently omit to repair and put in proper condition any street in which the earth or pavement may have been removed by them, the company shall be subject to indictment therefor in the same manner that towns are subject to indictment for bad roads, and shall be holden to pay such fines as may be imposed therefor, which fine shall be collected, applied and expended in the same manner as is provided in case of the indictment aforesaid against towns, or may be ordered to be paid into the treasury of the city. If any person shall suffer injury in his person or property by reason of any such negligence, wilfulness or omission, he shall be entitled to recover damages of the company therefor, by an action on the case in any court of competent jurisdiction.

Penalty for obstructing streets, &c.

Ibid. § 13.

14. Any person who shall maliciously injure any of the property of said company, or who shall corrupt the waters of said creek or any of its tributaries, or render them in any manner impure, or who shall throw the carcasses of dead animals or other offensive matter or materials into the waters of said creek or its tributaries, or leave the same upon the same when frozen, or who shall in any manner wilfully destroy or injure any dam, reservoir, aqueduct, pipe, hydrant, or other property held, owned or used by said corporation for the purposes of this act, shall pay three times the amount of damages to said company, to be recovered in any proper action; and every such person, on conviction of either of said acts, shall be punished by fine not exceeding five thousand dollars, and by imprisonment not exceeding one year.

Penalty for injuring property and corrupting waters.

Ibid. § 14.

15. If in the erection and construction of the works herein provided for, it shall become necessary to erect

Erecting dams, &c.

Ibid. § 15.

any dam or permanent works over tide waters, the said company is hereby authorized to erect, construct and maintain the same, first having the authority, in writing, of the harbor commissioners of Portland harbor therefor, and the approval of the city council of said city.

Power of Mayor and aldermen. Ibid. § 16.

16. The mayor and aldermen, for the time being, shall at all times have the power to regulate, restrict and control the acts and doings of said corporation, which may in any manner affect the health, safety or convenience of the inhabitants of said city.

First meeting. Ibid. § 17.

17. The first meeting of said corporation may be called by a notice signed by any two of the corporators, published five days successively before the day fixed for such meeting, in any newspaper published in Portland.

Corporation may issue bonds. Act 1867, c. 364. § 3.

18. The said corporation may issue its bonds for the construction of its works, upon such rates and time as it may deem expedient, not exceeding in all the sum of eight hundred thousand dollars, and secure the same by a mortgage of the franchise and property of said company.[2]

City may exempt from taxation for six years. Ibid. § 4.

19. The city council of the city of Portland, may, by vote exempt any property of said corporation not now in existence, from taxation for the term of six years.

An act additional to water Company charter. Contracts binding. 1868, c. 497.

20. Any contract or stipulations which may be made by the city council of Portland on behalf of said city, and the Portland Water Company, as a condition of giving the consent of said city council, required in the ninth section of chapter one hundred and fifty-nine of the special laws of the year one thousand eight hundred and sixty-six, entitled, "an act to supply the people of Portland with pure water," shall be binding on the parties thereto.

Same subject. Ibid. § 2.

21. The city council may embody such conditions and stipulations as may be agreed upon by said parties, and may be deemed necessary to protect the interest of the inhabitants of said city, in the ordinance by which the consent required in said ninth section shall be given, and such ordinance shall be binding on said water company. But nothing in such ordinance contained shall relieve said

[2] Act of 1867, c. 364, took effect, by its terms, Feb. 26, 1867.

company from any of the duties and liabilities imposed by said act to which this act is additional.

Court of equity to compel performance. Ibid. § 3.

22. In addition to all legal remedies which may at any time exist, the supreme judicial court shall have jurisdiction in equity, to compel the performance of all such conditions and stipulations, or of any contract or agreements made by said city and said company by virtue of such conditions and stipulations; and for this purpose it may grant injunctions and make decrees of specific performance by said company of such conditions, stipulations and contracts, upon a summary hearing, and from time to time modify such injunctions and decrees as the case may require, in accordance with the rules and practice in equity proceedings in relation to injunctions.

Board of commissioners. Ibid. § 4.

23. After the city council of Portland shall have given its consent for said company to lay their pipes in the streets as provided in section nine of the act aforesaid, and shall have entered into a contract with the said company as authorized to do by this act, the mayor and aldermen of said city, at any time thereafter, may and are hereby authorized and empowered to appoint a board of commissioners, consisting of three citizens of Portland, whose duty it shall be to see that the regulations made by virtue of said act, and the terms and conditions agreed upon between the city and said company are punctually observed and performed. Such commissioners shall be appointed by nomination by the mayor and confirmation by the board of mayor and aldermen. One shall be appointed for one year, one for two years, and one for three years, so that one shall go out of office annually at the same time at which the term of office of mayor expires. When the term of any commissioner expires, a new appointment shall be made in the same manner for the term of three years. When a vacancy occurs in any manner, an appointment shall be made for the balance of the term.

Time for completion of work. Ibid. § 5.

24. The time allowed by law to said company for the completion of its work is hereby extended two years from the passage of this act.

Ordinances.[3]

Ordinance, March 3, 1868.

1. The Portland Water Company are authorized to lay down in and through the streets of the city of Portland, and to take up and repair all such pipes, aqueducts, and fixtures as may be necessary for the objects of their incorporation, subject to all the requirements of their charter and the additional act approved February 14, 1868, and to the conditions of the following agreement, which is hereby incorporated into this ordinance as a part thereof, and as a condition of the consent hereby given.

Contract and consent.

This memorandum of an agreement made and entered into at Portland, this twenty-eighth day of February, A. D. 1868, by and between the city of Portland, of the first part, and the Portland Water Company, a corporation established and organized under the laws of the State of Maine, party of the second part, witnesseth:

That in consideration that the city of Portland doth hereby consent that the said Portland Water Company may lay down its mains and pipes in the city of Portland, subject to all the conditions and limitations and liabilities imposed in the charter of said company, which are as follows, viz:

The said company are authorized to lay down in and through the streets of said city and to take up and repair all such pipes, aqueducts, and fixtures as may be necessary for the objects of their incorporation, the consent of the city council being given thereto under the following restrictions and regulations, and subject to the following agreements:

Said company shall be liable in all cases to repay to the city all sums of money that said city may be obliged to pay on any judgment recovered against said city for damages occasioned by any obstructions, or taking up or displacement of any street by said com-

[3] See ordinance as to taking water from reservoirs. Ord. 1, title "Fire."

pany, whatever, with or without the consent of the city council, together with counsel fees and other expenses incurred by said city in defending any suit to recover damages as aforesaid, with the interest on the same, to be recovered in an action for money paid to the use of said company; and whenever the company shall lay down any pipes or aqueducts in any streets or make any alteration or repair in their works in any street, they shall cause the same to be done with as little obstruction to the public travel as may be practicable, and shall at their own expense, without unnecessary delay, cause the earth and pavement removed by them to be replaced in proper condition; they will not in any case obstruct and impair the use of any private or public drain, common sewer or reservoir or gas pipe, but said company shall have the right to cross, or when necessary, to change the direction of any private drain in such manner as not to obstruct or impair the use thereof; being liable for any injury occasioned by any such crossing or alteration to the owner thereof, or any other person injured, in an on action the case.

The said company on its part, doth hereby covenant and agree with said city as follows:

First. Said corporation shall furnish at all times to the city of Portland, without charge to the city, for use in public buildings and school houses of the city, and for extinguishment of fires and other strictly municipal purposes, such amount and volume of water as may be needful therefor; the necessary service pipes and hydrants for distribution thereof for the purposes aforesaid being furnished, laid, and connected with the pipes of this company at the expense of the city, and will also supply, upon the same conditions, free from charge to the city, the water for three public fountains, the regulation of the supply of water from the fountains to be under the joint

control of the water commissioners of the city, and the president of the company.

Second. The water shall be introduced into the city from Sebago Lake, by a twenty-inch hydraulic main, so as to supply the hydrants, within two years from January 1st, A. D. 1868.

Third. A reservoir or reservoirs shall be constructed on Bramhall's or Munjoy Hills, of the capacity of 16,000,000 gallons, and the higher elevations on Bramhall and Munjoy shall be supplied by a standpipe or by gravitation directly from the mains, in a manner satisfactory to engineer of the city. The capacity of the reservoir shall be increased from time to time when necessary to meet the requirements of increased consumption.

Fourth. For city distribution, in addition to the twenty-inch mains, there shall not less than 5,000 feet of sixteen-inch pipe, 5,000 feet of twelve-inch pipe, 5,000 feet of ten-inch pipe, 10,000 feet of eight-inch pipe, 40,000 feet of six-inch pipe, and 10,000 feet of four-inch pipe.

Fifth. In the event of reasonable ground of complaint of want of supply to more sparsely populated portions of the city the city council shall decide upon the feasibility and necessity, and the company shall lay its mains wherever the city council shall decide it reasonable to require it under all the circumstances of the case.

Sixth. The rate charged to the water takers shall be reasonable as compared with the rates in other cities, with due consideration to the cost and income of the works; and in case of excessive or exorbitant rates, shall be liable to correction by the supreme judicial court, under the equity powers conferred on the court by the act of February 14, 1868, and for manufactories and other similar large consumers the maximum rates shall be fixed by the city and the

company, and in case of their disagreement, by the three commissioners appointed by the supreme judicial court.

The works shall be constructed under the supervision of an engineer appointed by the city, who shall confer with the engineer of the company as the work progresses, and in case of disagreement a third engineer shall be selected, whose decision shall be final.

In witness whereof, the said Portland Water Company hath hereto, by its president, thereto duly authorized, affixed the name and seal of said company, the assent of said city being given in the ordinance in which this agreement is incorporated.

THE PORTLAND WATER COMPANY, } Corporated seal
by G. F. SHEPLEY, *President.* } of the Company.
Approved March 3, 1868. AUG. E. STEVENS, *Mayor.*

2. The following regulations and restrictions are prescribed and established for the laying down, taking up, replacing and repairing all pipes, aqueducts and fixtures by the Portland Water Company, in and through the streets of the city, pursuant to the provisions of section nine of the charter of said company, approved February 23, 1866. Regulations of Portland water company.

Said company, before making any excavation obstruction, or displacement in any street of the city, for the purpose of laying down, taking up, replacing or repairing any water pipes, aqueducts, or fixtures, shall first obtain written permission to do so from the commissioner on streets. Applications for such permits shall be made in writing, and shall specify the street or streets in which the work is intended to be done, and the points of commencement and termination of the same. Said permits shall not be valid unless countersigned by the mayor who shall specify on which side of the street the pipe is to be laid. When Permits. Ord. April 19, 1874.

work is completed, said company shall give notice thereof in writing to the street commissioner, who shall proceed immediately to examine the manner in which said work has been done, and if the same has been done to his satisfaction, he shall certify the fact to the company; otherwise he shall notify the company what further repairs are required, and said company shall thereupon thoroughly and completely repair the same to the satisfaction of said commissioner on streets.

When streets shall be broken into, &c. Ibid. § 2.

3. No street or sidewalk, or any part thereof, shall be dug up or broken into, for the purpose of laying service pipe, between the first day of December and the fifteenth day of April of each year, without the permission of the mayor and aldermen, in writing, under a penalty of twenty dollars and a further penalty of twenty dollars for each and every day or part of a day that the work is in progress. Nor shall the streets nor any part thereof, be dug up or broken into for the laying of main pipes, between the first day of November and the first day of May in each year, under a penalty of twenty dollars for each offense, and a further penalty of twenty dollars for every day or part of a day that the work shall be in progress, or the street remain broken as aforesaid. Nor shall any street or any part thereof be dug up or broken into before the water pipes are prepared and placed in the vicinity ready to be laid down.

Damages, Ibid. § 3.

4. Said company shall be liable for all damages occasioned by the digging up and opening any street, or obstructions therein by said company, as follows, viz: For all or any such works done before the first day of November, they shall be liable for all damages occasioned thereby, for the space of sixty days from and after the approval certified as aforesaid by said commissioner, and for all or any such works done after said first day of November, they shall be liable

until the fifteenth day of the June next following, of each year.

5. All said work shall, during its progress, be subject to the control of said street commissioner; and said company, its servants, contractors, and agents shall strictly observe all directions given by him for the protection and convenience of the public. All excavations and obstructions made in any street by said company, shall be well railed in and lighted after dark, so as to protect all persons from damage and accident thereby.

Control of street commissioner. Ibid. § 4.

6. Whenever any street, or any part thereof, is taken up for purposes aforesaid, said company shall perform the work proposed to be done, with all convenient despatch, and as soon as the same is done they shall repair such street and put the same in as good condition as it was in before such taking up, and shall cause all surplus earth, stones, materials, and rubbish to be immediately removed from the street; and whenever such street, or any part thereof, or any pavement thereon, shall thereafter settle or become out of repair by reason of the works aforesaid, the said company shall thoroughly and completely repair the same, to the satisfaction of said commissioner of streets. In case said company refuse or neglect to repair the same, after one day's notice therefor by said commissioner, he shall proceed to repair the same at the expense of said company.

When work to be done. Ibid. § 5.

7. Any obstruction, taking up, or displacement of any portion of a street contrary to these regulations, shall be considered, and is hereby declared to be a nuisance.

Obstructions deemed nuisances. Ibid. § 6.

8. Whenever any of said pipes, in laying them down, shall come in contract or interfere with any public drain or sewer, said pipes shall be laid under or over such drain or sewer, unless in the opinion of the committee on drains and sewers, it shall be

When pipes relaid at expense of company. Ibid. § 7.

necessary to change the direction of such drain or sewer, in which case the same shall be done by said company at their expense, under the direction and to the satisfaction of said committee.

Penalty for injuring property of the company. Ord. Oct. 13, 1870.

9. Any person, who within the limits of the city of Portland, shall wilfully or maliciously destroy or injure any dam, reservoir, aqueduct, pipe, hydrant, or other property held, owned, or used by said company for the purpose of which said company was chartered, or shall throw or deposit, or cause to be thrown or deposited, in any reservoir, fountain, or pipe, held, owned, used by, or connected with the works of said company, or used in supplying the city or the citizens of Portland with water, any animal, vegetable, or mineral substance, or shall otherwise corrupt the water therein, or render the same impure, shall, upon conviction of either of said acts, be punished by a fine not exceeding one hundred dollars for each offence.

Watering Troughs.

Statutes.

1. Watering troughs, abatement for.

1. A town, at its annual meeting, may authorize its assessors to abate three dollars from the tax of any inhabitant, who shall construct, and during the year keep in repair a watering trough beside the highway, well supplied with water, the surface of which shall be two and a half feet or more above the level of the ground, and easily accessible for horses and carriages, if the assessors think such watering trough for the public convenience. If more than one person in a surveyor's district claim to furnish it, the municipal officers are to decide where it shall be located.[1]

Watering troughs, abatement for. R. S., 1871, c. 18, § 56.

[1] Eastport v. Hawkes, 15 Maine, 155.

Weighers and Gaugers.[1]

Ordinances.

1. One or more weighers and gaugers to be appointed. To be sworn.
2. Duties.
3. Fees.
4. To pay for use of city scales.
5. Persons not authorized, acting. Penalty.

One or more weighers and gaugers to be appointed. To be sworn. Rev. Ord., 1868.

1. There shall annually be elected by the city council, in the month of March, one or more city weighers and gaugers, who shall be sworn to the faithful performance of the duties of said office, and who shall continue in office until removed, or until a successor is elected and qualified.

Duties. Ibid.

2. It shall be the duty of said weighers and gaugers when thereto requested by the owner, to weigh or gauge, as the case may be, the contents or capacity of any pipe, hogshead, tierce, barrel, cask, box and other vessel or article, and mark the contents and tare, and outs, as the case may be, and the initials of his name and office on each such vessel or article he shall so weigh or gauge.

Fees. Ibid.

3. Said weigher and gauger shall be entitled to charge and receive in full for his services aforesaid, the following fees for weighing, viz: seventeen cents for each pipe or hogshead, twelve cents for each tierce or box, eight cents for each barrel, twenty cents per ton for other articles, and the following fees for gauging, viz: ten cents for each pipe or hogshead, eight cents for each tierce, four cents for each barrel or cask, and three cents for ascertaining and marking

[1] See titles "Hay," and "Weights and Measures."

the outs of each cask, when the same is not gauged at the same time.

4. Weighers and gaugers shall pay to the city treasurer, to the use of the city, as compensation for the use of the city scales, one and a half cents for each pipe or hogshead; one cent for each tierce or box; one-half cent for each barrel; and two cents per ton for all other articles weighed with said scales.

Weighers and gaugers shall pay for use of city scales. Ord., May 21, 1858, and Rev. Ord., 1868.

5. Any person, not duly authorized as city weigher and gauger, who shall exercise that office by weighing or gauging any cargo or parts of cargo of any foreign merchandize, requiring a city weigher or gauger, or shall exercise or perform the duties of weigher or gauger in any manner for fees or hire, shall for every such violation of this ordinance, forfeit and pay a sum not exceeding thirty dollars to the use of the city.

Persons not authorized, acting. Penalty. Ord., Aug. 7, 1866, and Rev. Ord., 1868.

Weights and Measures.

Statutes.

1. Town seal and standard of beams, weights and measures to be kept by treasurers. Same to be sealed once in ten years; penalty for neglect, and how recovered and appropriated.
2. Appointment of sealers by municipal officers of towns; penalty for neglect, and how recovered and appropriated.
3. Penalty for sealer not accepting office and taking oath. Sealer to have custody of standards and seals, and be accountable for their preservation and re-delivery.
4. Duty of town sealer; penalty for neglecting the same, and how appropriated.
5. Dearborn or Hills' steelyard, or the Fairbanks' scale may be used, provided they are sealed.
6. All measures, for articles sold by heaped measure, shall be conformable to public standard. Penalty for selling by beams, weights or measures not sealed, and how appropriated.
7. Twenty-five pounds shall be a quarter; four quarters, one hundred; twenty hundreds one ton; and articles, sold by tale, shall be by decimal hundreds.
8. Fees of weighers.

Town seal and standard of beams, weights and measures to be kept by treasurers, &c. R. S., 1871, c. 43, § 4.

1. The treasurers of towns, at the expense thereof, shall constantly keep a town seal, and, as town standards, a complete set of beams, weights, and copper and pewter measures, conformable to the State standards, except that the bushel measure, and the half bushel, peck and half peck measures may be of wood instead of copper or pewter, but of the same dimensions, and except also a nest of troy weights other than those from the lowest denomination to eight ounces; they shall cause all beams, weights and measures, belonging to their towns, to be proved and sealed by the State or county standards once in ten years,

computing from July first, eighteen hundred and forty; and for every neglect of duty as aforesaid they shall forfeit one hundred dollars, half to the use of the town, and half to the use of the person suing therefor.

2. The municipal officers of each town shall annually appoint a sealer of weights and measures therein, removable at pleasure and have power to fill any vacancy that occurs; and for each month's neglect of this duty, they shall severally forfeit ten dollars, to be appropriated as in the preceding section. Any city may purchase and keep for use scales for weighing hay and other articles, appoint weighers and fix their fees, to be paid by the purchaser.

Appointment of sealers, &c.

Ibid. § 5.

3. If any person, so appointed and notified thereof, refuses for seven days to accept the office and be sworn, he shall forfeit five dollars; but when sworn, he shall receive the standards and seal from the treasurer, giving a receipt therefor, describing them and their condition, and therein engaging to re-deliver them at the expiration of his office in like good order; and he shall be accountable for their due preservation while in his possession.

Penalty for sealer not accepting office, &c.

Ibid. § 6.

4. Every such sealer shall annually, in the month of May, post notices in different parts of his town stating the times and places at which he will attend to the proof and sealing of weights and measures; shall deface or destroy all weights and measures that are not or cannot by him be made conformable to the standard; shall visit the houses of innholders, the warehouses and stores of merchants, and the dwelling houses of such other inhabitants, as neglect to send to him their weights and measures, and there prove and seal the same; and every sealer neglecting any duty herein required of him, and every person neglecting or refusing to have his weights and measures proved and sealed as aforesaid, shall forfeit ten dollars, to be appropriated as in section one of this chapter.

Duty of town sealer; penalty for neglect; how appropriated.

Ibid. § 7.

5. In all cases of weighing, the vibrating steelyard invented by Benjamin Dearborn, or the vibrating steelyard invented by Benjamin Dearborn and improved by Samuel Hills, or the Fairbank's scale, may be used; but before being offered for sale, or used, each beam and the poises thereof shall be sealed by a public sealer of weights and measures, appointed according to law.

What scales may be used, &c.

Ibid. § 8.

Measures, for articles sold by heaped measure, shall be conformable to standard.
Ibid. § 9.

6. All measures, by which fruit and other things, usually sold by heaped measures, are sold, shall be conformable in capacity and breadth, to the public standard; and if any person otherwise sells and exposes to sale any such fruit or other thing, any goods or commodities whatever by any other beams, weights, or measures than those proved and sealed as aforesaid, he shall forfeit for each offence not less than one dollar nor more than ten dollars; one-half to the use of the town, and the other to the sealer, or to him who prosecutes therefor.

Twenty-five pounds shall be a quarter, &c.
Ibid. § 10.

7. Such articles as are sold or exchanged in any market or town in this State by gross or avoirdupois weight, shall be sold or exchanged as follows: twenty-five avoirdupois pounds constitute one quarter; four quarters, one hundred; and twenty hundreds, one ton; and all other articles, usually sold by tale, shall be sold by decimal hundred.

Fees of sealers of weights and measures.
By whom paid.
Ibid. § 11.

8. The fees of sealers of weights and measures for trying and proving beams, weights and measures by the town standard, shall be as follows, to be paid by the person for whom the service is rendered: for a platform or hay scale weighing six thousand pounds or more, one dollar; for one weighing one thousand pounds and under six thousand, fifty cents; for a platform scale weighing six hundred pounds and under one thousand, twenty-five cents; for one weighing less than six hundred, ten cents; for any other scale or steelyard that weighs with a poise, five cents; for each dry measure and for all other weights, measures, scales or beams, three cents each; and a reasonable compensation for all repairs, alterations and adjustments necessary to make the same conformable to the town standard.

Weigher of Hard Coal.

Statutes.

1. Coal to be sold by weight, &c.
2. Weighers to be appointed and sworn.
3. Coal to be weighed by sworn weighers before sale, when not sold by cargo. Parties may agree upon weight.

Ordinances.

1. Weigher of hard coal to be chosen.
2. Duties.
3. To examine and prove scales used by him.
4. To give public notice of scales not sealed.
5. Not to use scales unless sealed. Penalty.
6. Penalty for dealer in coal, refusing weigher to prove his scales.
7. Compensation.

Statutes.

1. Anthracite, bituminous, or other mineral coal, shall be sold by weight; and two thousand pounds thereof, shall be a ton.

Coal to be sold by weight, &c. R. S., 1871, c. 41, § 11.

2. The municipal officers of towns shall annually appoint weighers of such coal, who shall be sworn, and receive such fees as said officers may establish to be paid by the buyer.

Weighers of coal to be appointed and sworn. Ibid. § 12.

3. Unless the coal is sold by the cargo, the seller shall, on request of the purchaser, cause the same to weighed by a sworn weigher, who shall make a certificate of the weight thereof; and the seller shall not maintain a suit for the price of such coal unless he had delivered such certificate to the buyer before its commencement.

Coal to be weighed by sworn weigher before sale, when not sold by cargo. Ibid. § 13, and Act, 1879, c. 142.

Ordinances.

1. There shall be chosen, annually, by the city council in convention, a suitable person as weigher of hard coal, who shall be sworn to the faithful discharge

Weigher of coal to be chosen. Rev. Ord., 1868.

of the duties of said office, and who shall be removable by vote of the city council; and in case of a vacancy in said office, the city council shall choose a suitable person to fill the same.

Duties.

Ibid.

2. It shall be the duty of the weigher of hard coal, when thereto requested, carefully to weigh or superintend the weighing of hard coal, sold in the city, and deliver to the driver or person taking away such coal, for each load he may weigh or superintend, as aforesaid, a ticket by him signed, certifying the quantity such load contains, and the names of seller and purchaser; and he shall keep an office in some convenient place in the vicinity of the principal coal yards in the city, where he can be found, for the performance of the duties of his office.

To examine and prove scales used by him.

Ibid.

3. The weigher of hard coal shall, from time to time, as often as once a month carefully examine, try and prove all scales used by him or under his superintendence for weighing hard coal; and if upon any examination and trial, it shall be found that such scales are not conformable to the legal standard, he shall give immediate notice thereof, in writing, to the owner or keeper of said scales, therein requesting him to have the same regulated and sealed forthwith.

To give public notice of scales not sealed.

4. In case said owner or keeper shall refuse or neglect to have the same tried, proved, and sealed by the public sealer of weights and measures, for the space of twenty-four hours after such notice, it shall be the duty of said weigher forthwith to give public notice thereof, in two of the city daily papers, published in this city.

Not to use scales unless sealed.

Ibid.

5. Said weigher is hereby forbidden from using said scales, or certifying the weight of coal weighed therewith, until the same shall have been tried, proved and sealed as aforesaid; and for any neglect of duty aforesaid, or violations of the provisions of this ordinance, said weigher shall forfeit and pay not

less than two dollars for each load of coal he shall weigh therewith, until the same shall be sealed as aforesaid, one-half of said penalty to enure to the prosecutor, and the other half to the city. Penalty.

6. If any dealer in hard coal in this city, after being requested by any person purchasing coal of him, shall refuse permission to said weigher to weigh said coal upon his scales, he shall forfeit and pay five dollars for each time he refuses such permission to said weigher, one-half thereof to the city and the other half to the complainant. Penalty for dealer in coal, refusing weigher to prove his scales. Ibid.

7. Said weigher of hard coal shall receive such fees for his services as shall be from time to time established by the mayor and aldermen, to be paid by the person requesting his services. Compensation. Ibid.

Weigher of Plaster.

Ordinances.

1. Weigher of plaster to be elected.
2. His compensation.
3. City to provide scales.
4. Bonds to be given.

Weigher of plaster to be elected. Rev. Ord. 1868.

1. There shall annually be elected, by the city council, a suitable person as weigher of plaster, who shall be sworn to the faithful discharge of the duties of his office.

Compensation. Ibid.

2. The weigher of plaster shall receive for and in full compensation for weighing plaster, seven cents per ton, to be paid by the purchaser for whom the services are performed.

City to provide scales. Ibid.

3. Scales suitable for weighing plaster shall be provided by the city, for the use of which, the weigher of plaster shall pay the city treasurer one-seventh part of all monies received by him for weighing.

Bonds to be given. Ibid.

4. The weigher of plaster shall give a bond in the sum of one hundred dollars, to be approved by the mayor and aldermen, for the faithful performance of his duty, and for the payment of such sums as shall be due to the city for the use of the scales.

Wells and Pumps.

Ordinances.

1. Penalty for injury to pumps.
2. Penalty for taking water from pump or well, or wasting the same.

Penalty for injury to pumps.

Rev. Ord. 1868.

1. If any person shall wilfully or carelessly break, injure or deface any pump in a well, partly or wholly made at the expense of the city, he shall forfeit and pay a sum not less than one nor more than ten dollars for each offence, and shall be further liable to the action of the city for all damages done by him to such pump.

Penalty for taking water from pump or well, or wasting the same,

Ibid.

2. No person shall at any time take more water from any of the wells aforesaid than he may want for immediate use, nor shall take water from such well, unless it be into some cask or other vessel, nor shall in any manner waste the water of such well, under a penalty of not less than one nor more than ten dollars for each offence.

Wharves.[1]

Statutes.

1. Wharves, extension of prohibited below low water mark, without consent. Not to be extended beyond harbor commissioners' line.
2. Notice for construction of wharves required.
3. Atlantic and St. Lawrence wharves beyond commissioners line.

Order.

1. Wharf line established.

Statutes.

Wharves not to extend below low water mark, without consent. City charter, § 22. Not to be extended beyond harbor commissioners' line.

1. No existing wharf in Portland shall be extended in the harbor a greater distance below low water mark than the same now exists, and hereafter no such new wharf shall be extended below low water mark into the harbor without, in either case, the written assent of the mayor and aldermen. No wharf or incumbrance shall hereafter be erected or extended into said harbor beyond the harbor commissioners' line.[2]

Notice for construction of wharves required. R. S., 1871, c. 17, § 25.

2. When the construction or extension of a wharf in tidal waters in any city is desired by the permission of the city authorities, they shall require the applicant to give fourteen days notice thereof by publication in two newspapers, before acting upon it.

Atlantic and St. Lawrence wharves to be allowed beyond commissioners' line. Act, 1881, Feb. 4.

3. The Atlantic and St. Lawrence Railroad Company and its lessees, are hereby authorized to build and maintain in the waters of Portland harbor, and in front of any lands now owned or leased by said parties or which may be hereafter purchased or leased, a wharf or wharves extending into said waters to a distance not exceeding

[1] Act of 1876, § 78, provides in general for proceedings in regard to wharf lines, but is made not to apply to Portland Harbor by private laws, 1876, c. 78. See title "Harbor of Portland." See also Act, 1853, c. 167, § 1.

[2] The legislature has power to establish lines in a harbor and to declare any wharf a nuisance which extends beyond such line. Commonwealth v. Alger, 7 Cushing, 53.

two hundred feet beyond the harbor line eastward of Galt's wharf, provided that the consent of the harbor commissioners of Portland or the city council of Portland shall first be obtained.

Order.

IN BOARD OF ALDERMEN,
October 11, 1854.

1. *Ordered*, That the following described line be, and the same hereby is fixed and established as the wharf line or limit of construction on the north side of Portland harbor, beyond which no wharf shall hereafter be constructed or extended in said harbor, within the limits bounded by said line, to wit :[3]

Wharf line established.

Rev. Ord., 1868.

Commencing at the eastern corner of the Gas Company's wharf, next above Portland bridge, in a straight line to the southern corner of the end of Robinson's wharf, and along the end of it to the eastern corner, thence in a straight line to the southern corner of the end of Central wharf, and along the end of it to the eastern corner; thence in a straight line to the southern corner of the end of Custom House wharf, and along the end of it to the eastern corner; thence in a straight line to the southern corner of the end of Railway wharf, and along the end of it to the eastern corner; thence in a straight line to the southerly corner of the end of St. Lawrence wharf, and along the end of it to the eastern corner; thence parallel to the straight portion of the outside railroad track, to the shoals to the southward of Fish point, as defined in a copy of a plan of Portland harbor, made by the United States coast survey, in 1853.

This is changed as noted below.

[3] See important change made in Harbor Commissioners' line, act 1881, February 24.

This act is printed under title "Harbor of Portland," in note to section one

Wood, Bark and Charcoal.

Statutes.

WOOD.

1. Dimensions of a cord of wood.
2. Penalty for selling without survey.
3. How wood, brought by water, shall be measured.
4. Ticket required.
5. Penalty for fraudulent stowage.

CHARCOAL.

6. How charcoal may be measured and sold.
7. Coal baskets to be sealed; dimensions.
8. Penalty.
9. Seizure of unlawful baskets.
10. Penalty for refusing to give certificate.

Ordinances.

1. Measurers of firewood and bark to be chosen. To be sworn. Vacancies to be filled.
2. Measurement to be in two branches. Of wood and bark brought into the city by carts, &c. Of same by water or railroad. City divided into two districts.
3. Duties of measurers. To give tickets certifying measure, &c. To keep record of tickets issued. To make annual report to city council.
4. Teams with wood or bark not to stand in streets longer than ten minutes. Cattle not to be fastened to post, &c. Team not to be fed in streets. Wood not to be unloaded or piled in market, if any.
5. Penalties.
6. Mayor and aldermen to appoint person to seize charcoal baskets.

Statutes.

WOOD AND BARK.

Dimensions of a cord of wood. R. S., 1871, c. 41, § 1.

1. Towns may, by ordinance, regulate the measure and sale of wood, coal and bark therein, and the location of teams hauling the same; and enforce it by reasonable penalties.[1] All cord wood exposed to sale shall be four

[1] Contract for sale of wood less than four feet long is not void; where there is no surveyor, parties may appoint one. Coombs v. Emery, 14 Maine, 404. As to *hard* and *soft* wood, see Darling v. Dodge, 36 Maine, 370.

feet long including half the scarf; and well and closely laid together; a cord of wood or bark shall measure eight feet in length, four feet in width, and four feet in height, or otherwise contain one hundred and twenty-eight cubic feet; and the measurer shall make due allowance for refuse or defective wood, and bad stowage.

Penalty for selling wood or bark before survey.

2. If any firewood or bark, brought into any town by land is sold and delivered, unless otherwise agreed to by the purchaser, before it is measured by a sworn measurer, and a ticket signed by him and given to the driver, stating the quantity the load contains, the name of the driver, and the town in which he resides, such wood or bark shall be forfeited, and may be libeled and disposed of according to law. Ibid. § 2.

How cord wood brought by water, shall be measured, &c.

3. All cord wood, brought by water into any town for sale, shall be corded on the wharf or land, on which it is landed, in ranges, making up in height what is wanting in length; then it shall be so measured and a ticket given to the purchaser, who shall pay the stated fees; and no such wood shall be carried away by any wharfinger or carter, before it has been so measured, under a penalty of one dollar for every load. Ibid. § 3.

Ticket stating quantity and name of driver, required, &c.

4. Every person, carrying any firewood from a wharf or landing for sale, shall be furnished by the owner or seller of it with a ticket stating the quantity and name of the driver; and if such firewood is carried away without such ticket, or any driver refuses to exhibit such ticket to any sworn measurer on demand, or does not consent to have the same measured, if in the opinion of the measurer the ticket certifies a greater quantity of wood than the load contains, such wood shall be forfeited, and may be seized, and libeled by said measurer according to law. Ibid. § 4.

Penalty for fraudulent stowage.

5. When any wood, bark, or charcoal, is sold by the cord, foot, or load, which is stowed in such a manner as to prevent the surveyors from examining the middle of the load, and it appears on delivery, that it was stowed with a fraudulent intent of obtaining payment for a greater quantity than there was in fact, the seller or owner thereof shall pay ten dollars for the use of the county, with costs of prosecution. Ibid. § 5.

CHARCOAL.

How charcoal may be measured and sold.

Ibid. § 6.

6. Any charcoal brought into town for sale, may be measured and sold by the cord or foot, estimating the cord at ninety-six bushels, when the purchaser and seller may agree to the same; and the measurers before named shall be measurers of charcoal also.

Coal baskets to be sealed; dimensions.

Ibid. § 7.

7. All baskets for measuring charcoal brought into a town for sale, shall be sealed by the sealer of the town where the person using them usually resides, and shall contain two bushels and be of the following dimensions, viz.; nineteen inches in breadth in every part thereof, and seventeen inches and a half deep, measuring from the top of the basket to the highest part of the bottom; and in measuring charcoal for sale the basket shall be well heaped.

Penalty.

Ibid. § 8.

8. Whoever measures charcoal for sale, in any basket of less dimensions, or not sealed, shall forfeit, for each offence, five dollars.

Seizure of unlawful baskets.

Ibid. § 9.

9. The municipal officers of towns may appoint some suitable person to seize and secure all the baskets used for measuring coal, not according to the provisions hereof.

Penalty for refusing to give certificate, &c.

Ibid. § 10.

10. If any measurer of wood, bark, or charcoal, neglects or refuses to give to the owner or purchaser a certificate of the contents of any load, he shall forfeit five dollars for each offense; and all the penalties herein before provided, may be recovered by action of debt or complaint, one-half to the town where the offence is committed, and the other to the prosecutor.

Ordinances.

Measurers of firewood and bark to be chosen.

Rev. Ord., 1868.

To be sworn.

Vacancies to be filled.

1. There shall be chosen annually by the city council in convention, two or more measurers of fire-wood and bark, brought into the city for sale, who shall be sworn to the faithful performance of their office, and shall hold their office during the municipal year, and until others are appointed in their stead, unless sooner removed by vote of the city council. In case of a vacancy in said office by resignation, removal or otherwise, the city council shall proceed to fill the same by a new election for the residue of the year.

2. In order to prevent competition in the survey of firewood and bark, this department shall be divided into two branches, one of which shall embrace the survey of all firewood and bark brought into the city on carts, wagons or sleds, and the other shall embrace the survey of firewood and bark brought by water or railroad conveyance; and each measurer shall be independent of the other, and shall attend personally and exclusively to the duties of that branch of the survey to which he is chosen. In order still further to prevent competition, the number of measurers of firewood and bark, brought into the city by water or railroad conveyance, shall be limited to two, and the city shall be divided into two districts for the measurement of the same, to each of which districts one measurer shall be designated; and all wood and bark brought as aforesaid into either district, shall be measured as provided in section three of this ordinance, exclusively by the measurer appointed to said district. So much of the city as lies westerly of a line drawn through the centre of Wilmot street, to Congress street; thence through the centre of Congress to Exchange street; thence through the centre of Exchange to Long wharf, and including Long wharf, shall constitute district number one; and so much as lies to the easterly of said lines shall constitute district number two. The measurer first elected by the city council shall be the measurer for district number one, during the municipal year, unless the district of each measurer shall be designated at the time of said election.

Measurement divided into two branches

Of wood and bark brought into city by cart &c.

Of same by water or railroad.

City divided into two districts.

Ord., May 29, 1856, and Rev. Ord., 1868.

3. It shall be the duty of each measurer carefully and accurately to measure all firewood and bark which he may be requested to measure in his branch of survey, on payment of the fees allowed for such service, and deliver to the driver, or person having the care of the wood or bark, a ticket under his hand for

Duties of measurers. Rev. Ord., 1868.

To give tickets certifying measure, &c.

each load he may measure, certifying in words at length, written in ink, the quantity the load contains, with the name of the driver, or person having the charge of the wood or bark, and the town in which he resides. Each measurer shall keep an accurate record of all tickets by him issued, in a book to be by him provided and kept for that purpose, and shall report annually, to the city council, the number of cords of firewood and bark measured by him during the preceding year, and the amount of fees received therefor.

To keep record of tickets issued.

To make annual report to city council.

4. No team having firewood or bark for sale, shall be suffered to stand in any street, alley, square, or other public place, for a longer time in any one day, than ten minutes, nor shall the driver of any team which has brought firewood or bark as aforesaid, hitch or fasten his cattle to any post, tree, or fence, in any street or lane; nor shall any driver of such team feed his cattle, or suffer the same to be fed, in any street, alley, square, or other public place; nor shall any person unload or pile any firewood or bark upon or within the wood market, if any.

Teams with wood or bark not to stand in street longer than ten minutes.

Ibid.

Cattle not to be fastened to post, &c.

Teams not to be fed.

Wood not to be unloaded or piled in market.

5. Every person offending against any of the preceding sections, or unreasonably neglecting to perform any of the duties therein required, shall forfeit and pay, for the use of the city, a sum not less than five dollars for each offence.

Penalties.

Ibid.

CHARCOAL.

6. The mayor and aldermen may annually appoint one or more suitable persons to seize and secure all baskets used for measuring charcoal that shall not be of the dimensions prescribed by the laws of the State, and to prosecute all persons who shall be guilty of a breach of said laws.

Mayor and aldermen to appoint person to seize charcoal baskets.

Ibid.

UNIVERSITY

Work Houses.

[See Revised Statutes, 1871, chapter 21, and title, "PAUPERS."

City of Portland.

IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND EIGHTY-ONE.

AN ORDINANCE IN RELATION TO THE REVISED ORDINANCES.

Be it ordained by the mayor, aldermen, and common council of the city of Portland, in city council assembled, as follows:

The ordinances in this book declared to be the ordinances of the city.

SEC. 1. All the ordinances printed and contained in the preceding pages, that is to say, in a certain book prepared and printed under the direction of Benjamin F. Andrews, Charles J. Chapman, Holman S. Melcher, Edward Duddy and Samuel Thurston, a committee duly appointed and authorized for that purpose by a vote of the city council of the city of Portland, approved on the seventh day of April in the year eighteen hundred and eighty, and under the further direction of Charles J. Chapman, Edward B. Winslow, Holman S. Melcher, Edward Duddy and Samuel Thurston, a committee duly appointed and authorized to supervise the completion of the work of preparing, printing and binding said book, by a vote

of the City Council of the city of Portland approved on the fifteenth day of March in the year eighteen hundred and eighty-one, shall be deemed and are declared to be ordinances of the said city, and shall have the force thereof.

Repeal of inconsistent ordinances.

SEC. 2. All orders, ordinances and parts of orders and ordinances, inconsistent with any of the preceding ordinances, are hereby repealed.

Saving of rights accrued, suits pending, &c.

SEC. 3. The repeal of the preceding section shall not affect any act done, or any right accruing or accrued, or established, or any suit or proceeding had or commenced in any civil case before the time when such repeal shall take effect, nor any offence committed, nor any penalty or forfeiture incurred, nor any suit or prosecution pending at the time of such repeal, for any offence committed or for the recovery of any penalty or forfeiture incurred, under any of the provisions so repealed and in all cases where any provisions of the preceding ordinances made are to go into operation at any time hereafter, the corresponding provisions, if any, of the said repealed ordinances or orders shall continue in force until the said new provision shall go into operation; subject, however, to any express regulations relating thereto which may be contained in the preceding ordinances; and no ordinance, order, or part of an ordinance or order which has been heretofore repealed, shall be revived by the repeal in the preceding section.

How copies of revised ordinances shall be kept, &c.

SEC. 4. All copies of the revised ordinances, not otherwise disposed of, shall be deposited with the city clerk, subject to the direction and control of the city council, and shall be on sale at such price as shall be determined by the mayor and aldermen.

Copies for city council.

SEC. 5. Every member of the city council shall be entitled to one copy of the revised ordinances.

IN BOARD OF MAYOR AND ALDERMEN,
December 5, 1881.

Read twice and passed to be engrossed, and sent down for concurrence.

Attest: H. I. ROBINSON, *Clerk.*

IN COMMON COUNCIL,
December 5, 1881.

Read twice and passed to be engrossed in concurrence.

Attest: L. CLIFFORD WADE, *Clerk.*

IN BOARD OF MAYOR AND ALDERMEN,
December 5, 1881.

Read and passed to be ordained and sent down for concurrence.

Attest: WM. SENTER, *Mayor.*

IN COMMON COUNCIL,
December 5, 1881.

Read and passed to be ordained in concurrence.

Attest: SAMUEL THURSTON,
President of Common Council.

APPROVED, December 6, 1881.

WM. SENTER, *Mayor.*

APPENDIX.

RULES AND ORDERS

OF THE

BOARD

OF

MAYOR AND ALDERMEN.

Section 1. The mayor or in his absence the chairman of the board, shall take the chair at the hour to which the board adjourned, and shall call the members to order; and a quorum being present, shall cause the minutes of the preceding meeting to be read. In the absence of the mayor and chairman, the board shall elect a chairman *pro tempore*.

Section 2. He shall preserve decorum and order; may speak to points of order in preference to other members; and shall decide all questions of order, subject to an appeal to the board by motion regularly seconded; and no other business shall be in order till the question on the appeal is decided.

Section 3. He shall declare all votes; but if any member doubts a vote, the chairman shall cause a return of the members voting in the affirmative and in the negative, without debate.

Section 4. He may read sitting, but shall rise to state a motion or put a question.

Section 5. On all questions and motions whatsoever, the chairman shall take the sense of the board by yeas and nays, provided any member shall so request.

Section 6. He shall propound all questions in the order in which they are moved, unless the subsequent motion shall be previous in its nature; except in naming sums and fixing times, the largest sum and the longest time shall be put first.

Section 7. After a motion is stated or read by the chairman, it shall be deemed to be in possession of the board, and shall be disposed of by vote.

Section 8. When a question is under debate, the chairman shall receive no motion but to adjourn, lay on the table, to postpone to a day certain, to commit, to amend, or to postpone indefinitely; which several motions shall have precedence in the order in which they stand arranged. A motion to postpone indefinitely shall not be renewed during the same session; and a motion to strike out the enacting clause of an ordinance shall be equivalent to a motion to postpone indefinitely.

Section 9. The chairman shall consider a motion to adjourn as always in order except on immediate repetition; and that motion, and the motion to lay on the table, or take from the table, shall be decided without debate.

Section 10. When a vote is passed, it shall be in order for any member to move a reconsideration thereof at the same, or the next stated meeting, but not afterward, except on papers returned from the mayor; and when a motion of reconsideration is decided, that vote shall not be reconsidered.

Section 11. Every member, when about to speak, shall rise and respectfully address the mayor or chairman; confine himself to the question under debate, and avoid personalities. No member shall speak out of his place without leave.

Section 12. No member speaking shall be interrupted by another, but by a call to order, or to correct a mistake.

Section 13. Every member who shall be present when a question is put, shall give his vote, unless the board shall excuse him; application to be so excused, on any question, must be made before the board is divided, or before the calling of the yeas and nays, and such application shall be decided without debate.

Section 14. Every motion shall be reduced to writing, if the chairman shall so direct, or any member request it.

Section 15. Any member may require the division of a question, when the sense will admit of it.

Section 16. Motions and reports may be committed and recommitted at the pleasure of the board.

Section 17. A motion for commitment, until it is decided, shall preclude all amendments of the main question.

Section 18. When a vote is doubted, the members for and against the question, when called on by the chairman, shall rise and stand till they are counted.

Section 19. The following standing committees of the board shall be appointed, viz:

Committee on agency for sale of intoxicating liquors, committee on drains and sewers, each to consist of three members of the board.

Committee on health, committee on police, committee on licenses, each to consist of the mayor and two members of the board.

Committee on damages for grading streets, to be composed of the mayor and the members of the joint committee on highways on the part of this board.

All committees, unless otherwise provided for, shall be appointed by the mayor or chairman.

Section 20. Committees of the board to whom any matter is specially referred, shall be required to report within four weeks or ask for further time.

Section 21. The foregoing rules shall not be dispensed with unless two-thirds of the members present consent thereto, nor shall any rule or order be amended or repealed, without notice in writing being given at the preceding meeting, nor unless a a majority of the board vote thereto.

Section 22. The city clerk shall keep minutes of the votes and proceedings of the board of aldermen, board of mayor and aldermen, conventions of the two boards, and notice reports, petitions, memorials and other papers which are presented. He shall record at length, in a journal provided with an index, all orders, ordinances, resolutions or reports, which are passed or accepted by the board, or in concurrence. He shall draw up and transmit all messages to the board of common council, unless the aldermen otherwise direct.

JOINT RULES AND ORDERS

OF THE

CITY COUNCIL.

Section 1. At the commencement of the municipal year the following joint standing committees shall be appointed, viz:

On Accounts, to consist of one alderman and two members of the common council, in accordance with the ordinance.

On Finance, to consist of the mayor, two aldermen, and three members of the common council, in accordance with the ordinance.

On Public Buildings, to consist of the mayor, one alderman, and three members of the common council, in accordance with the ordinance.

On Streets, Sidewalks and Bridges, to consist of two aldermen and three members of the common council.

On Laying out New Streets, to consist of the mayor, two aldermen, and three members of the common council, in accordance with the ordinance.

On Unimproved Real Estate, to consist of two aldermen, and three members of the common council.

On Cemeteries and Public Grounds, to consist of one alderman and three members of the common council, in accordance with the ordinance.

On Salaries, to consist of three aldermen and three members of the common council.

On Fire Department, to consist of two aldermen and three members of the common council.

On Street Lamps, to consist of one alderman and three members of the common council, in accordance with the ordinance.

On Judicial Proceedings and Claims, to consist of the mayor, two aldermen, and three members of the common council.

On Engrossed Bills, to consist of one alderman and three members of the common council.

On Bells and Clocks, to consist of one alderman and three members of the common council.

On Public Instruction, to consist of two aldermen and three members of the common council.

The mayor shall be *ex-officio* chairman of any joint committee of which he is a member.

The members of the board of mayor and aldermen and of the the common council, who shall constitute the joint standing committees, shall be chosen or appointed by their respective boards, and the member of the board of aldermen first named on every joint committee (of which the mayor is not a member) shall be its chairman, and in case of absence or inability the member of the common council first named shall be its chairman, and after these the member of the board of aldermen, and after him the member of common council first in order, shall call meetings of the committee and act as chairman.

Section 2. In every case of disagreement between the two branches of the city council, if either board shall request a conference and appoint a committee of conference, the other board shall also appoint a committee to confer; such committee shall, at a convenient time meet and state to each other, verbally or in writing, as either shall choose, the reasons of their respective boards, for and against the matter in controversy, confer freely thereon, and report to their respective branches.

Section 3. The reports of all committees, whether by ordinance, resolves, or otherwise, shall be made to the board in which the business referred originated; and no report shall be received unless agreed to in the committee actually assembled.

Section 4. Each board shall transmit to the other all papers on which joint action may be necessary, and when either board shall non-concur with the action of the other respecting any order, ordinance, or resolution, notice of such non concurrence shall be given by indorsement on such paper. All papers on their passage between the boards shall be under the signatures of their respective clerks, except ordinances and joint resolutions in their last stage, which shall be signed by the presiding officers.

Section 5. Either board may propose to the other a time to which both boards shall adjourn.

Section 6. All by-laws passed by the city council shall be termed "ordinances," and the enacting style shall be: "Be it ordained by the mayor, aldermen and common council of the city of Portland, in city council assembled."

Section 7. In all votes of *command*, the form of expression shall be "ordered;" and of *opinions*, *principles*, *facts*, or purposes, the form shall be "resolved."

Section 8. All ordinances shall be prefixed by a title briefly stating the subject matter of the same, and have two several readings before they are finally passed. No ordinance or order imposing penalties, or authorizing the expenditure of money, or authorizing a loan shall have its second reading on the same day, if five members object.

Section 9. No ordinance or resolution shall pass to be engrossed without being twice read. All ordinances or resolutions having been engrossed, shall be referred to the committee on engrossed bills. No ordinance shall be enacted, or resolve finally passed, until reported correctly and truly engrossed.

Section 10. After the annual order of appropriations shall have been passed, no subsequent expenditures shall be authorized for any purpose, unless provision for the same shall be made by specific transfer from some of the appropriations contained in such annual order, or by expressly creating therefor a city debt. No transfer from any appropriation shall be made, and no city debt shall at any time be created, unless the order authorizing the same shall pass by a vote of two-thirds of the whole number of each branch, voting by yeas and nays.

Section 11. Each committee having in charge the expenditure of money, during this municipal year, shall report to the city council at the first meeting of each alternate month, or at the next meeting thereafter, the amount of money expended during the preceding two months; also the amount of bills, as nearly as practicable, remaining unpaid.

Section 12. In all contracts or expenditures to be made under the authority of the city council, whenever the estimates shall exceed the appropriations especially made therefor, or whenever any committee or officer shall have expended the sum especially appropriated for their use in the order of appropriation for the year, and in either case shall require a further sum, it shall be the duty of such committee or officer having such matter in charge, to submit the same to the city council for instructions, before such contract is made, or any expenditure for the object is incurred.

Section 13. It shall be the duty of every committee, to which any subject may be referred, to report thereon within four weeks, or at the next regular meeting.

Section 14. No chairman of any committee shall approve any bill or account against the city, not authorized by the committee.

Section 15. The salary of each subordinate city officer shall be fixed annually by the concurrent action of both boards; and after being once fixed, shall not be increased during the time for which they are elected.

Section 16. The approval in writing of a majority of the members of any and all joint standing committees shall be necessary upon all bills referred to such committee or committees before the same shall be paid or considered valid.

Section 17. None of the foregoing joint rules and orders shall be suspended or repealed unless two-thirds of the members present consent thereto.

RULES AND ORDERS

OF THE

COMMON COUNCIL.

DUTIES AND POWERS OF THE PRESIDENT.

Section 1. The president shall take the chair precisely at the time appointed for the meeting, call the members to order, cause the roll to be called, and on the appearance of a quorum cause the minutes of the preceding meeting to be read, and proceed to business.

Section 2. He shall preserve decorum and order; may speak to points of order in preference to other members, but shall not speak to any other question while in the chair. He shall decide all questions of order, subject to an appeal to the council, by motion regularly seconded, and no other business shall be entertained until the question on the appeal shall be decided.

Section 3. He shall declare all votes. If a vote is doubted, the question shall be determined without debate, by members standing in their places until counted.

Section 4. He shall rise to address the council or to put a question, but may read sitting.

Section 5. In all cases the president may vote.

Section 6. When the council shall determine to go into a committee of the whole, the president shall appoint the member who shall take the chair. He may at any time call a member to the chair, but such substitution shall not continue beyond an adjournment.

Section 7. On all questions and motions whatsoever, the president shall take the sense of the council by yeas and nays, provided one-fifth of the members present shall so require.

Section 8. The president shall propound all questions in the order in which they are moved, unless the subsequent motion shall be previous in its nature, except that in naming sums and fixing times, the largest sum and the longest time shall be put first.

Section 9. When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question, to postpone to a day certain, to commit, to amend, or to postpone indefinitely; which several motions shall have precedence in the order in which they are arranged. A motion to postpone indefinitely shall not be renewed during the same session. A motion to strike out the enacting clause of an ordinance shall be equivalent to a motion to postpone indefinitely.

Section 10. A motion to adjourn shall be considered as always in order, except on an immediate repetition; and that motion, and the motion to lay on the table, shall be decided without debate.

Section 11. Upon the motion for the previous question being made and seconded by a majority, the president shall put the question in the following form: "*Shall the main question now be put?*" and all debate upon the main question shall be suspended until the motion for the previous question shall be decided. After the adoption of said motion, the sense of the council shall be forthwith taken upon all pending amendments, and then upon the main question.

Section 12. No debate shall be allowed on a motion for the previous question. Neither is it susceptible of amendment. All questions of order, arising incidentally thereon, must be decided without discussion, whether appeal be had from the chair or not.

Section 13. When two or more members rise to speak at the same time, the president shall name the member who is entitled to the floor.

Section 14. All committees shall be appointed by the president, unless otherwise provided for.

Section 15. When a member is about to speak, he shall rise in his place, and respectfully address the president, confine himself to the question under debate, and avoid personalities.

Section 16. No member speaking shall be interrupted by another, but by a call to order, or to correct a mistake.

Section 17. No member shall speak more than twice on one question at the same meeting, without leave of the council.

Section 18. When a vote has passed, it shall be in order for any member to move a reconsideration thereof at the same or the succeeding meeting, but not afterward, except on papers returned from the mayor. If made at the same meeting, a majority of the members present may reconsider, but if not made until the succeeding meeting, the subject shall not be reconsidered unless a majority of the whole council shall vote therefor; and when a motion for reconsideration is decided, that vote shall not be reconsidered.

Section 19. When any member shall be guilty of a breach of either of the rules and orders of the council, he may, on motion be required to make satisfaction therefor, and shall not be allowed to vote, or speak, except by way of excuse, until he has done so.

Section 20. Every member present when a question is put, shall give his vote, unless the council, for special reasons, shall excuse him; application to be so excused must be made before the council is divided, or before the calling of the yeas and nays, and decided without debate.

Section 21. Every motion shall be reduced to writing, if the president shall so direct.

Section 22. Any member may require the division of a question when the sense will admit of it.

Section 23. A motion for commitment, until it is decided, shall preclude all amendments of the main question.

Section 24. All questions relating to priority of business to be acted upon, shall be decided without debate.

Section 25. The seats shall be occupied in the following order: Members from ward one, first on the left hand of the president, and members from other wards in regular rotation according to the number of their ward.

Section 26. No member shall call another by name in debate, but may allude to him by any intelligible or respectful designation.

Section 27. If the reading of any paper is called for, and any member objects thereto, it shall be decided by the council. No member shall withdraw from the council room without leave unless there be a quorum left present at the board. Members shall not leave their places on an adjournment until the president has declared the council adjourned.

Section 28. All papers addressed to the council shall be presented by the president, or a member in his place, indorsed with the name of the member presenting it, and shall be read by the president, clerk, or such other person as the president may request; and shall be taken up in the order in which they are presented, except when the council shall otherwise determine: Provided that any petition, memorial, remonstrance, or other paper of like nature requiring reference to a committee, shall be indorsed upon the back with the first name and the number of signers, and the object of the paper, and may be read by each indorsement unless otherwise ordered.

POWERS AND DUTIES OF COMMITTEES, ETC.

Section 29. The rules of the council shall be observed in committee of the whole, as far as they are applicable. A motion to rise, report progress, and ask leave to sit again, shall be first in order, and shall be decided without debate.

Section 30. No committee shall sit during a session of council without leave.

Section 31. All committees chosen by ballot, or consisting of one or more from each ward, shall organize at their first meeting by the choice of a chairman, and report the same to the council. In all cases where the president appoints a committee, unless otherwise provided for, the member first named shall be chairman, and in his absence the member next in order, who shall be present, shall be chairman *pro tempore*.

Section 32. All select committees of the council shall consist of three members, unless otherwise ordered.

Section 33. No report of any committee shall be received unless agreed to in committee assembled.

Section 34. Committees of the council to which any matter is referred, shall report thereon within four weeks, or at the next regular meeting.

DUTIES OF CLERK, ETC.

Section 35. The clerk shall keep a minute of the votes and proceedings of the council, and enter the same in a journal provided with an index. He shall record at length all accepted reports of select committees of the council; shall draw up and carry to the board of mayor and aldermen all messages, unless the council shall otherwise direct. He shall cause the members to be notified at the time of the meetings by the messenger. In the absence of the president he shall call the council to order, and preside until a president *pro tempore* is chosen.

Section 36. No rule or order of the council shall be suspended unless two-thirds of the members present consent thereto, nor shall any rule or order be altered or repealed without notice of such alteration being given in writing at a preceding meeting, or unless a majority of all the members of the council vote therefor.

CATALOGUE

OF THE

GOVERNMENT

OF THE

CITY OF PORTLAND,

IN CHRONOLOGICAL ORDER OF THEIR SERVICE,

FROM ITS

INSTITUTION,

April, 1832, to March, 1881.

CATALOGUE

OF THE

CITY GOVERNMENT,

FROM 1832 TO 1881.

VOTES FOR MAYOR AT THE SEVERAL ELECTIONS HELD FROM 1832 TO 1881.

1832—(1st trial.)

Emerson,	621
Richardson,	278
Clapp,	333
Churchill,	141
Total,	1374

(2d trial.)

Emerson,	737
Churchill,	699
Scattering,	7
Total,	1442

[Emerson resigned before the year expired, and Jonathan Dow was elected to fill the vacancy.]

1833.

Jonathan Dow,	709
Anderson,	783
Scattering,	10
Total,	1492

1834.

Cutter,	1232
Anderson,	835
Total,	2067

1835.

Cutter,	964
Harris,	558
Total,	1522

1836.

Cutter,	980
Clapp,	962
Total,	1942

1837.

Cutter,	940
Boody,	380
Scattering,	94
Total,	1414

1838.

Cutter,	1245
Mitchell,	985
Total,	2230

1839.

Cutter,	1044
Clapp,	686
Scattering,	12
Total,	1742

1840, (1st trial).

Greely,	497
Cutter,	509
Southgate,	702
Scattering,	9
Total,	1717

(2d trial.)

Cutter,	776
Southgate,	700
Scattering,	105
Total,	1581

[No choice. Mr. Cutter was elected by city council.]

1841, (1st trial.)

Churchill,	710
Southgate,	680
Scattering,	137
Total,	1527

(2d trial.)

Churchill,	577
Cutter,	269
Southgate,	787
Scattering,	38
Total,	1671

[No choice. The city council elected Churchill.]

1842.

Churchill,	863
Anderson,	963
Scattering,	23
Total,	1849

1843, (1st trial.)

Greely,	691
Anderson,	904
Cutter,	311
Scattering,	12
Total,	1918

(2d trial.)

Greely,	547
Anderson,	745
Cutter,	240
Scattering,	36
Total,	1568

[There being no choice the city council elected Greely.]

1844, (1st trial.)

Greely,	771
Emery,	583
Appleton,	458
Scattering,	10
Total,	1822

(2d trial.)

Greely,	855
Greenough,	598
Scattering,	14
Total,	1467

1845, (1st trial.)

Greely,	817
Clapp,	666
Winslow,	316
Scattering,	19
Total,	1818

(2d trial.)

Greely,	950
Clapp,	636
Scattering,	6
Total,	1592

1846, (1st trial.)

Greely,	764
Holden,	515
Adams,	514
Scattering,	6
Total,	1799

(2d trial.)

Greely,	941
Holden,	849
Scattering,	6
Total,	1796

1847.

Greely,	1018
Wells,	687
Scattering,	20
Total,	1725

1848, (1st trial.)

Greely,	811
Howard,	720
Scattering,	116
Total,	1647

[Of the scattering, 93 for Clapp.]

(2d trial.)

Greely,	922
Howard,	715
Clapp,	103
Scattering,	13
Total,	1753

(1849, 1st trial.)

Cahoon,	957
Clapp,	1016
Scattering,	95
Total,	2068

(2d trial.)

Cahoon,	1066
Clapp,	1022
Scattering,	84
Total,	2182

[There being no choice, Cahoon was elected by the city council.]

1850.

Cahoon,	1013
McCobb,	674
Scattering,	23
Total,	1710

1851, (1st trial.)

Neal Dow,	1184
Shepley,	972
Noyes,	225
Scattering,	5
Total,	2386

(2d trial.)

Dow,	1331
Shepley,	975
Scattering,	2
Total,	2308

1852.

Dow,	1496
Parris,	1900
Scattering,	3
Total,	3399

1853.

Cahoon,	1313
Dow,	353
Fox,	611
Fessenden,	75
Scattering,	59
Total,	2511

1854.		1861.	
Cahoon,	1590	Thomas,	2431
Dow,	1487	Howard,	2281
Scattering,	34	Scattering,	9
Total,	3111	Total,	4621

1855.		1862.	
Dow,	1894	Thomas,	1821
McCobb,	1819	McLellan,	1687
Scattering,	29	Scattering,	6
Total,	3742	Total,	3514

1856.		1863.	
McCobb,	2115	McLellan,	2166
Willis,	1837	Carroll,	1950
Scattering,	3	Scattering,	21
Total,	3955	Total,	4137

1857.		1864.	
Willis,	1964	McLellan,	1941
Cummings,	1547	Carroll,	805
Scattering,	3	Scattering,	7
Total,	3514	Total,	2753

1858.		1865.	
Jewett,	1757	McLellan,	1765
Shepley,	1490	Sturdivant,	689
Scattering,	53	Scattering,	505
Total,	3390	Total,	2959

1859.		1866.	
Jewett,	2017	Stevens,	2029
Holden,	1812	Shurtleff,	934
Scattering,	4	Scattering,	192
Total,	3833	Total,	3155

1860.		1867.	
Howard,	2420	Stevens,	1903
Jewett,	2323	Shurtleff,	755
Scattering,	16	Scattering,	2
Total,	4759	Total,	2660

1868, (1st trial.)

McLellan,	2405
Putnam,	2242
Deering,	179
Scattering,	9
Total,	4835

(2d trial.)

McLellan,	2712
Putnam,	2629
Deering,	289
Scattering,	4
Total,	5634

[No choice. The city council elected McLellan.]

1869.

Putnam,	2241
Drummond,	2096
Scattering,	6
Total,	4343

1870.

Kingsbury,	2468
Putnam,	2245
Scattering,	14
Total,	4727

1871.

Kingsbury,	2317
Emery,	1932
F. Fox,	39
Scattering,	9
Total,	4297

1872.

Kingsbury,	2051
Cleaves,	1668
Morgan,	314
Scattering,	18
Total,	4051

1873.

Wescott,	2142
Cleaves,	1725
Scattering,	4
Total,	3871

1874.

Wescott,	1910
Sturtevant,	1387
Scattering,	9
Total,	3306

1875.

Richardson,	2463
Wescott,	1992
Scattering,	44
Total,	4499

1876.

Fessenden,	3239
Richardson,	2719
Scattering,	3
Total,	5961

1877.

Butler,	2711
Richardson,	2116
Scattering,	4
Total,	4831

1878.

Buttler,	2544
Walker,	2364
Turner,	138
Scattering,	18
Total,	5064

1879.

Walker,	2942
Senter,	2841
Scattering,	61
Total,	5844

1880.

Senter,	3354
Fox,	2117
Scattering,	13
Total,	5484

1881.

Senter,	2732
Andrews,	2075
Ames,	99
Scattering,	7
Total,	4913

CATALOGUE.

1832.

MAYOR.

ANDREW L. EMERSON.*

ALDERMEN.

Ward 1.—Thomas Hammond,
2.—John Williams,
3.—John Patten,
4.—Charles Mussey,
5.—Seth Bird,
6.—Nathan Cummings,
7.—Ebenezer Webster.

COMMON COUNCIL.

SAMUEL FESSENDEN, PRESIDENT.

Ward 1.—Samuel Fessenden,
James Mountfort,
Ansyl Clark.

2.—William Cammett,
Daniel Winslow,
John T. Walton.

3.—Moses Hall,
Eliphalet Greely,
George Jewett.

4.—David Dana,
John W. Appleton,
Simeon Hall.

Ward 5.—Oliver Everett,
Isaac Smith,
Elisha Trowbridge.

6.—George Bartol,
William Cutter, Jr.,
James B. Cahoon.

7.—Job Randall,
Isaac Sparrow,
Ezra Holden.

CHARLES HARDING, *Clerk.*

* Resigned previous to expiration of office, and Jonathan Dow was chosen to fill the vacancy, December 31, 1832.

1833.

MAYOR.

JOHN ANDERSON.

ALDERMEN.

Ward 1.—Ansyl Clark,
2.—John Williams,
3.—Moses Hall,
4.—Simon Greenleaf,
5.—Nathaniel Shaw,
6.—Charles Q. Clapp,
7.—William T. Vaughan.

COMMON COUNCIL.

DANIEL WINSLOW, PRESIDENT.

Ward 1.—James Mountford, William W. Thomas, Steph. Frothingham.
2.—George W. Pierce, Daniel Winslow, David Burbank.
3.—Eliphalet Greely, Thomas Warren, Moses Plummer.
4.—Simeon Hall, Andrew P. Mason, Thomas Chadwick.
5.—Thomas Bolton, Jeremiah Leavett, Nathaniel Hamlin,
6.—Martin Gore, Benjamin Larrabee, George Bartol.
7.—Ezra Holden, James Townsend, Robert Knight.

BENJAMIN C. FERNALD, *Clerk.*

1834.

MAYOR,

LEVI CUTTER,

ALDERMEN,

Ward 1.—Phillip Greely,
2.—William Cammett,
3.—Thomas Warren,
4.—John Purington,
5.—Alpheus Shaw,
6.—James B. Cahoon,
7.—William T. Vaughan.

COMMON COUNCIL.

ELIPHALET GREELY, PRESIDENT.

Islands.—John Starling.
Ward 1.—Steph. Frothingham, James Mountfort.
2.—Lemuel Dyer, 2d, Marshal French, Charles M. Davis.
3.—Eliphalet Greely, Moses I. Plummer, Benj. Knight.
4.—Thomas Chadwick, Simeon Hall, Andrew P. Mason.
5.—Joseph Noble, Asa Hanson, Edward D. Preble.
6.—Benjamin Larrabee, Nathaniel Warren, John Dow.
7.—Ezra Holden, Alden Pierce, Nathaniel Hasty, Jr.

CHARLES HARDING, *Clerk.*

1835.

MAYOR.

LEVI CUTTER.

ALDERMEN.

Ward 1.—Phillip Greely,
2.—William Cammett,
3.—Thomas Warren,
4.—John Purington,
Ward 5.—John Fox,
6.—James B. Cahoon,
7.—Nathaniel Ilsley.

COMMON COUNCIL.

ELIPHALET GREELY, PRESIDENT.

Ward 1.—Steph. Frothingham,
James Mountfort.

2.—Marshall French,
Hosea Harford,
Seba Smith.

3.—Eliphalet Greely,
Benjamin Knight,
Samuel Chase.

4.—Thomas Chadwick,
Nathaniel Sweetsir,
Benjamin Ilsley.

Ward 5.—Asa Hanson,
Edward D. Preble,
Phineas Varnum.

6.—Oliver B. Dorrance,
Henry B. Hart,
Solomon H. Mudge.

7.—James Hall,
Nathaniel Hasty,
Ira Bradford.

CHARLES HARDING, *Clerk.*

1836.

MAYOR.

LEVI CUTTER.

ALDERMEN.

Ward 1.—Phillip Greely,
2.—Wm. W. Woodbury,
3.—Charles M. Davis,
4.—Mark Harris,
Ward 5.—Asa Hanson,
6.—James B. Cahoon,
7.—William T. Vaughan.

COMMON COUNCIL.

PHINEAS VARNUM, PRESIDENT.

Ward 1.—James Mountfort,
Steph. Frothingham.

2.—Enoch Moody,
William Capen,
William Robinson.

3.—Charles Rogers, Jr.
Benj. Knight,
William Boyd.

4.—Samuel Hale,
Horace Ward,
Freeman Bradford.

Ward 5.—Phineas Varnum,
John Edmond,
Elisha Trowbridge.

6.—Oliver B. Dorrance,
Henry B. Hart,
Seth Paine, Jr.

7.—Nathaniel Hamblin,
Ira Bradford,
James Hall.

CHARLES HARDING, *Clerk.*

1837.

MAYOR.

LEVI CUTTER.

ALDERMEN.

Ward 1.—Steph. Frothingham,
2.—Eleazer Wyer,
3.—Charles Rogers, Jr.
4.—Charles C. Mitchell,
Ward 5.—Asa Hanson,
6.—James B. Cahoon,
7.—Albert Smith.

COMMON COUNCIL.

JOHN D. KINSMAN, PRESIDENT.

Ward 1.—James Mountfort,
Joseph R. Thompson.

2.—Enoch Moody,
Charles Blanchard,
William Capen.

3.—William Boyd,
Thomas Cummings,
Nathaniel Ellsworth.

4.—Andrew T. Dole,
Rufus Read,
James L. Merrill.

Ward 5.—John D. Kinsman,
Elisha Trowbridge,
Winslow H. Purinton.

6.—Oliver B. Dorrance,
Ezra F. Beal,
John L. Meserve.

7.—Nathaniel Hamblin,
Ira Bradford,
Stephen W. Eaton.

CHARLES HARDING, *Clerk.*

1838.

MAYOR.

LEVI CUTTER.

ALDERMEN.

Ward 1.—Steph. Frothingham,
2.—Eleazer Wyer,
3.—Eliphalet Greely,
4.—Charles C. Mitchell,
Ward 5.—George Clark,
6.—Oliver B. Dorrance,
7.—Albert Smith.

COMMON COUNCIL.

JOHN D. KINSMAN, PRESIDENT.

Ward 1.—James Mountfort,
George Pearson,
Simeon Skillings.

2.—William Capen,
William Robinson,
Hall J. Little.

3.—William Boyd,
Thomas Cummings,
John B. Cross.

4.—Charles Kimball,
Ebenezer Owen,
George Worcester.

Ward 5.—John D. Kinsman,
Elisha Trowbridge,
Charles Davidson.

6.—John L. Meserve,
Nathaniel F. Deering,
Clement Pennell.

7.—Stephen W. Eaton,
Alfred Randall,
Samuel Elder.

CHARLES HARDING, *Clerk.*

1839.

MAYOR.

LEVI CUTTER.

ALDERMEN.

Ward 1.—Steph. Frothingham,
2.—Eleazer Wyer,
3.—Eliphalet Greely,
4.—Charles C. Mitchell,
Ward 5.—George Clark,
6.—Nathaniel F. Deering,
7.—Joseph Howard.

COMMON COUNCIL.

ELISHA TROWBRIDGE, PRESIDENT.

Ward 1.—George Pearson, Joshua B. Osgood, Simeon Skillings.
2.—William Robinson, Hall J. Little, Alexander Hubbs.
3.—William Boyd, Thomas Cummings, Charles E. Barrett.
4.—Charles Kimball, Ebenezer Owen, George Worcester.
Ward 5.—Elisha Trowbridge, St. John Smith, Nahum Libby.
6.—Clement Pennell, Nathaniel Blanchard, William E. Greely.
7.—Stephen W. Eaton, Alfred Randall, John Sweetsir.

CHARLES HARDING, *Clark.*

1840.

MAYOR.

LEVI CUTTER.

ALDERMEN.

Ward 1.—Joshua B. Osgood,
2.—Hall J. Little,
3.—William Boyd,
4.—John Purinton,
Ward 5.—Joseph M. Gerrish,
6.—Nathaniel F. Deering,
7.—Joseph Howard.

COMMON COUNCIL.

CHARLES E. BARRETT, PRESIDENT.

Ward 1.—Harrison Brazier, Ezekiel Thurston, John Brackett.
2.—William Robinson, Edward Fernald, Joseph Brooks.
3.—Charles E. Barrett, Seward Merrill, Edmund Winship.
4.—Samuel Chadwick, Henry B. Hart, Joseph L. Kelly.
Ward 5.—St. John Smith, Nahum Libby, Theophilus C. Hersey.
6.—Nathaniel Blanchard, William E. Greely, John B. Brown.
7.—Ira Bradford, Joseph R. Mathews, Levi Bolton.

CHARLES HARDING, *Clerk.*

1841.

MAYOR.

JAMES C. CHURCHILL.

ALDERMEN.

Ward 1.—Joshua B. Osgood,
2.—Hall J. Little,
3.—Samuel Chase,
4.—John Purinton,
5.—Joseph M. Gerrish,
6.—William Goodenow,
7.—Joseph Howard.

COMMON COUNCIL.

HENRY B. HART, PRESIDENT.

Ward 1.—Harrison Brazier, Ezekiel Thurston, John Brackett.
2.—Edwin Fernald, Joseph Brooks, Elias Mountfort.
3.—Edmund Winship, William D. Little, William C. Beckett.
4.—Henry B. Hart, Joseph L. Kelley, George Worcester.
5.—St. John Smith, Rufus Horton, Eleazer McKinney.
6.—Nathaniel Blanchard, John B. Brown, Benjamin Larrabee.
7.—Levi Bolton, Joseph R. Mathews, Joseph S. Sargent.

CHARLES HARDING, *Clerk.*

1842.

MAYOR.

JOHN ANDERSON.

ALDERMEN.

Ward 1.—John Yeaton,
2.—John Williams,
3.—Samuel Chase,
4.—James Todd,
5.—Parker McCobb,
6.—James Appleton,
7.—Joseph Howard.

COMMON COUNCIL.

CHARLES HOLDEN, PRESIDENT.

Ward 1.—Samuel Clark, Peter Mugford, John Brackett.
2.—Charles Holden, Benjamin Fogg, John Dela.
3.—Edmund Winship, William D. Little, William C. Beckett.
4.—Eliphalet Clark, George W. Smith, Zenas Libbey.
5.—Henry Trickey, William P. Stodder, Byron Greenough.
6.—Charles Blake, William W. Thomas, Calvin Edwards.
7.—James Meserve, William Budd, Elisha Hasty.

JOHN G. SAWYER, *Clerk.*

1843.

MAYOR.

ELIPHALET GREELY.

ALDERMEN.

Ward 1.—John Yeaton,
2.—John Williams,
3.—Samuel Chase,
4.—Thomas R. Jones,
Ward 5.—Elisha Trowbridge,
6.—John Dow,
7.—Joseph Howard.

COMMON COUNCIL,

WILLIAM D. LITTLE, PRESIDENT.

Ward 1.—Judah Chandler,
John B. Hudson,
Islands.—John Brackett.

2.—Benjamin Fogg,
Edward Waite,
Ebenezer C. Stevens.

3.—William D. Little,
William Hammond,
Nathan Chapman.

4.—George W. Smith,
Zenas Libby,
Abel M. Baker.

Ward 5.—Byron Greenough,
William P. Stodder,
Hanson M. Hart.

6.—Calvin Edwards,
Clement Pennell,
Alvah Conant.

7.—William Budd,
Alvah Libby,
John W. Munger.

JOHN G. SAWYER, *Clerk.*

1844.

MAYOR.

ELIPHALET GREELY.

ALDERMEN.

Ward 1.—Steph. Frothingham,
2.—John Williams,
3.—Samuel Chase,
4.—Thomas R. Jones,
Ward 5.—Elisha Trowbridge,
6.—John Dow,
7.—Stephen W. Eaton.

COMMON COUNCIL.

WILLIAM D. LITTLE, PRESIDENT.

Ward 1.—Judah Chandler,
John B. Hudson,
Islands.—Charles York.

2.—Ebenezer C. Stevens,
Edward Waite,
Samuel R. Leavitt.

3.—William D. Little,
Edmund Winship,
William Hammond.

4.—Abel M. Baker,
Henry B. Hart,
Benjamin Ilsley, Jr.

Ward 5.—Hanson M. Hart.
W. C. Osborne,
Wm. E. Edwards.

6.—Alvah Conant,
Clement Pennell,
Rufus Horton.

7.—Alvah Libby,
Daniel Brazier,
Lewis J. Sturtevant.

S. B. BECKETT, *Clerk.*

1845.

MAYOR.

ELIPHALET GREELY.

ALDERMEN.

Ward 1.—Steph. Frothingham,
2.—James C. Churchill,
3.—Charles E. Barrett,
4.—Thomas R. Jones,
5.—Elisha Trowbridge,
6.—William Goodenow,
7.—George F. Shepley.

COMMON COUNCIL.

WILLIAM D. LITTLE, PRESIDENT.

Ward 1.—George Pearson, Joseph Hay, Franklin C. Moody,
2.—William E. Kimball. Solomon Crockett, Josh. W. Waterhouse,
3.—William D. Little, William Hammond, Joseph R. Thompson.
4.—Benjiman Ilsley, Jr. Henry B. Hart, Joseph L. Kelly.
5.—Ezra Carter, Freeman S. Clark, Elbridge Tobie.
6.—Rufus Horton, Horace V. Bartol, Clement Pennell.
7.—Samuel Rolfe, David J. True, Jeremiah Proctor.

S. B. BECKETT, *Clerk.*

1846.

MAYOR.

ELIPHALET GREELY.

ALDERMEN.

Ward 1.—Harrison Brazier,
2.—John Yeaton,
3.—Charles E. Barrett,
4.—Edward Howe,
5.—Henry B. Hart,
6.—John Dow,
7.—P. Fox Varnum.

COMMON COUNCIL.

WILLIAM D. LITTLE, PRESIDENT.

Ward 1.—George Pearson, Joseph Hay, Franklin C. Moody.
2.—Harris C. Barnes, Hosea Harford, Solomon Crockett.
3.—William D. Little, Joseph R. Thompson, Reuben Kent, Jr.
4.—Benjamin Ilsley, Jr. Solomon T. Corser, Nahum Libby.
5.—Wm. E. Edwards, Robert F. Green, Thomas F. Tolman.
6.—Clement Pennell, Rufus Horton, Horace V. Bartol.
7.—George T. Hedge, Samuel Rolfe, Jeremiah Proctor,

JOHN H. WILLIAMS, *Clerk.*

1847.

MAYOR.

ELIPHALET GREELY.

ALDERMEN.

Ward 1.—Harrison Brazier,
2.—Jona. O. Bancroft,
3.—Samuel Chase,
4.—Edward Howe,
5.—Simon Merrill,
6.—Nathaniel F. Deering,
7.—P. Fox Varnum.

COMMON COUNCIL.

WILLIAM D. LITTLE, PRESIDENT.

Ward 1.—George Pearson, Franklin C. Moody, Jacob T. Lewis.
2.—Hosea Harford, Solomon Crockett, Eliphalet Webster.
3.—William D. Little, Reuben Kent, Jr., Alfred M. Dresser.
4.—Solomon T. Corser, Edward Wheeler, Jr., Nathan Barker.
Ward 5.—George Worcester, John Edwards, (One vacancy.)
6.—Clement Pennell, Horace Bartol, Charles Baker.
7.—Moody F. Walker, Samuel Rolfe, James Meserve.

JOHN H. WILLIAMS, *Clerk.*

1848.

MAYOR.

ELIPHALET GREELY.

ALDERMEN.

Ward 1.—Steph. Frothingham,
2.—Lemuel Cobb, Jr.,
3.—Geo. W. Woodman,
4.—John Purinton.
5.—Byron Greenough,
6.—Nathaniel F. Deering,
7.—Edward Fox.

COMMON COUNCIL.

WILLIAM D. LITTLE, PRESIDENT.

Ward 1.—Jacob T. Lewis, Elisha Hinds, Abner Lowell.
2.—Rufus W. Thaxter, Harris C. Barnes, John C. Tukesbury.
3.—William D. Little, Thomas Cummings, Joseph R. Thompson.
4.—Solomon T. Corser, Charles W. Child, William E. Kimball.
Ward 5.—Hezekiah Winslow, James T. McCobb, Elbridge Tobie.
6.—James B. Cahoon, Rufus Horton, Martin Gore.
7.—Alvah Libby, Peter Bolton, Hiram Brooks.

JOHN H. WILLIAMS, *Clerk.*

1849.

MAYOR.

JAMES B. CAHOON.

ALDERMEN.

Ward 1.—Robert Dresser,
2.—E. C. Stevens,
3.—W. W. Woodbury,
4.—John Purinton,
Ward 5.—S. R. Lyman,
6.—Alvah Conant,
7.—Edward Fox.

COMMON COUNCIL.

WILLIAM D. LITTLE, PRESIDENT.

Ward 1.—Joshua Dyer, Daniel M. Thurston, Peter Mugford.
2.—Moses Russell, Hosea Harford, James Crie.
3.—William D. Little, Caleb S. Carter, Thomas Cummings.
4.—William E. Kimball, Joseph R. Lufkin, Moses Merrill.
Ward 5.—Eleazer McKenney, George Worcester, Eli Webb.
6.—John Bradford, Nathaniel O. Cram, Edwin A. Norton.
7.—Alvah Libby, Hiram Brooks, Peter Bolton.

JOHN H. WILLIAMS, *Clerk.*

1850.

MAYOR.

JAMES B. CAHOON.

ALDERMEN.

Ward 1.—Steph. Frothingham,
2.—E. C. Stevens,
3.—Charles E. Barrett,
4.—J. B. Cummings,
Ward 5.—S. R. Lyman,
6.—Alvah Conant,
7.—Edward Fox.

COMMON COUNCIL.

WILLIAM D. LITTLE, PRESIDENT.

Ward 1.—Simeon Skillings, 3d, Eliphalet Webster, William G. Kimball.
2.—Hosea Harford, James Crie, Moses Russell.
3.—William D. Little, Thomas Cummings, Thomas Warren.
4.—Moses Merrill, William E. Kimball, Calvin Gilson.
Ward 5.—George Worcester, Eleazer McKenney, Charles Blake.
6.—N. O. Cram, John Bradford, Jedediah Jewett.
7.—Thomas W. O'Brien, Hiram Brooks, Nathan Mayhew.

JOHN H. WILLIAMS, *Clerk.*

1851.

MAYOR.

NEAL DOW.

ALDERMEN.

Ward 1.—Steph. Frothingham,
2.—George Pearson,
3.—Samuel Chase,
4.—J. B. Cummings.

Ward 5.—Charles Jones,
6.—Wm. W. Thomas,
7.—Hiram Brooks.

COMMON COUNCIL.

WILLIAM G. KIMBALL, PRESIDENT.

Ward 1.—Simeon Skillings, 3d,
William Hoit,
S. B. Beckett.

2.—William I. Cross,
Joseph R. Brazier,
Moses Russell.

3.—Bradbury Dearborn,
Henry Nowell,
Daniel Plummer.

4.—Moses Merrill,
Joseph Ring,
William Cammett.

Ward 5.—James E. Robinson,
Veranus C. Hanson,
Hanson M. Hart.

6.—Jedediah Jewett,
John Bradford,
William G. Kimball.

7.—John W. Rand,
Nathaniel Walker,
J. S. Palmer.

JOHN H. WILLIAMS, *Clerk.*

1852.

MAYOR.

ALBION K. PARRIS.

ALDERMEN.

Ward 1.—Robert Dresser,
2.—George Pearson,
3.—W. P. Smith,
4.—James Furbish,

Ward 5.—Hezekiah Winslow,
6.—Jacob McLellan,
7.—J. S. Palmer.

COMMON COUNCIL.

CHARLES B. SMITH, PRESIDENT.

Ward 1.—John Chase,
John H. Short,
L. D. Mason.

2.—H. Bailey,
Joseph Hay,
J. R. Brazier.

3.—John Yeaton,
C. C. Harmon,
Charles Holden.

4.—Joseph Ring,
Calvin Gilson,
Charles D. Bearce.

Ward 5.—P. Fox Varnum,
Charles B. Smith,
Ezra Russell.

6.—Nathaniel Warren,*
Edwin Churchill,
Abiel Somerby,
Charles H. Haskell.

7.—John W. Rand,
Charles H. Lovejoy,
F. Seymour Nichols.

JOHN H. WILLIAMS, *Clerk.*

*Resigned, and Mr. Haskell elected to vacancy.

1853.

MAYOR.

JAMES B. CAHOON.

ALDERMEN.

Ward 1.—Samuel L. Carleton,
2.—George Pearson,
3.—Geo. W. Woodman,
4.—Rufus E. Wood,
Ward 5.—O. L. Sanborn,
6.—Jacob McLellan,
7.—Jonas Perley.

COMMON COUNCIL.

EDWARD P. GERRISH, PRESIDENT.

Ward 1.—Emery Cushing,
Moses G. Dow,
Sewall Mitchell.

2.—Samuel Blanchard,
Joseph Hay,
Thomas P. Sweetsir.

3.—William E. Kimball,
William C. Means,
Daniel Green.

4.—Joseph Ring,
James Todd,
George Lord.

Ward 5.—Ezra Russell,
Albion Witham,
Charles B. Merrill.

6.—Rufus Horton,
Nathaniel Ross,
Edward P. Gerrish.

7.—N. P. Cushman,
Marshall Rood,
Charles H. Green.

JOHN H. WILLIAMS, *Clerk.*

1854.

MAYOR.

JAMES B. CAHOON.

ALDERMEN.

Ward 1.—Samuel L. Carlton,
2.—Henry A. Jones,
3.—Geo. W. Woodman,
4.—Rufus E. Wood,
Ward 5.—O. L. Sanborn,
6.—N. Cummings,
7.—Hiram Brooks.

COMMON COUNCIL.

HENRY C. BABB, PRESIDENT.

Ward 1.—Henry Robinson,
Sewall Mitchell,
Henry C. Babb.

2.—Samuel Blanchard,
Rufus Beal,
George W. Brown.

3.—Wm. C. Means,
N. J. Gilman,
Daniel Green.

4.—James Todd,
Joseph Ring,
James S. Marrett.

Ward 5.—Ezra Russell,
Charles B. Merrill,
Albion Witham.

6.—Daniel L. Choate,
George Worcester,
Augustus E. Stevens.

7.—Sewall C. Chase,
Charles H. Green,
Denney M. C. Dunn.

JOHN T. HULL, *Clerk.*

1855.

MAYOR.

NEAL DOW.

ALDERMEN.

Ward 1.—Samuel L. Carleton,
2.—Henry A. Jones,
3.—Joseph Libby,
4.—Joseph Ring,
5.—S. J. Anderson,
6.—Wm. W. Thomas,
7.—Hiram Brooks.

COMMON COUNCIL.

HEZEKIAH PACKARD, PRESIDENT.

Ward 1.—Moses G. Dow, Henry Robinson, Joseph York.
2.—R. C. Webster, Paul Hall, George W. Brown.
3.—N. J. Gilman, Wm. C. Means, George F. Ayer.
4.—James Todd, James S. Marrett, Stephen Emerson.
5.—Eli Webb, Ira P. Farrington, Wm. P. Stodder.
6.—Daniel L. Choate, John B. Carroll, Hall J. Little.
7.—Hezekiah Packard, Thomas Starbird, Charles H. Green.

JOHN T. HULL, *Clerk.*

1856.

MAYOR.

JAMES T. McCOBB.

ALDERMEN.

Ward 1.—S. R. Leavitt,
2.—J. R. Brazier,
3.—C. C. Harmon,
4.—R. E. Wood,
5.—S. J. Anderson,
6.—N. O. Cram,
7.—J. S. Palmer.

COMMON COUNCIL.

CHARLES HOLDEN, PRESIDENT.

Ward 1.—D. W. Fessenden, William V. Bowen, Joshua F. Weeks.
2.—Joshua Dyer, W. H. Purinton, Charles H. Warren.
3.—Charles Holden, Wm. D. Little, J. W. Russell.
4.—Stephen Emerson, James Todd, C. H. Adams.
5.—A. K. Shurtleff, William P. Stodder, I. P. Farrington.
6.—T. A. Roberts, C. H. Haskell, Hall J. Little.
7.—Willard Brackett, C. H. Stuart, Daniel Garland.

M. F. WHITTIER, *Clerk.*

1857.

MAYOR.

WILLIAM WILLIS.

ALDERMEN.

Ward 1.—S. R. Leavitt,
2.—D. W. Fessenden,
3.—N. J. Miller,
4.—R. E. Wood,
Ward 5.—E. Trowbridge,
6.—Rensalear Cram,
7.—Samuel E. Spring.

COMMON COUNCIL.

H. B. HART, PRESIDENT.

Ward 1.—William V. Bowen,
J. F. Weeks,
Moses Gould.

2.—Jonathan M. Heath,
Samuel Waterhouse, Jr.
George M. Elder.

3.—Benjamin Fogg,
Francis Blake,
D. D. Akerman.

4.—James Todd,
Stephen Emerson,
C. H. Adams.

Ward 5.—H. B. Hart,
Nathaniel Walker,
Henry Willis.

6.—Stephen Patten,
Frederick Hatch,
Aretus Shurtleff.

7.—J. N. Morrill,
L. B. Smith,
John P. Lowell.

M. F. WHITTIER, *Clerk.*

1858.

MAYOR.

JEDEDIAH JEWETT.

ALDERMEN.

Ward 1.—William V. Bowen,
2.—D. W. Fessenden,
3.—N. J. Miller,
4.—James Todd,
Ward 5.—Mark P. Emery.
6.—E. McKenney,
7.—Samuel E. Spring.

COMMON COUNCIL.

LEWIS B. SMITH, PRESIDENT.

Ward 1.—Moses Gould,
Emery Cushing,
George W. Beal.

2.—Jonathan M. Heath,
Samuel Waterhouse, Jr.,
George M. Elder.

3.—Benjamin Fogg,
Francis Blake,
D. D. Akerman.

4.—C. H. Adams,
Stephen Emerson,
J. D. Seavy.

Ward 5.—Stevens Smith,
N. A. Foster,
J. S. Boothby.

6.—Frederic Hatch,
A. Shurtleff,
E. P. Banks.

7.—J. N. Morrill,
Lewis B. Smith,
Levi Weymouth.

J. T. HULL, *Clerk.*

1859.

MAYOR.

JEDEDIAH JEWETT.

ALDERMEN.

Ward 1.—William Curtis,
2.—Daniel W. Fessenden,
3.—J. R. Thompson,
4,—James Todd,

Ward 5.—Mark P. Emery,
6.—Eleazer McKenney,
7.—Hiram Brooks.

COMMON COUNCIL.

LEWIS B. SMITH, PRESIDENT.

Ward 1.—George W. Beal,
Emery Cushing,
William A. Winship.

2.—Charles M. Plummer,
William C. How,
Samuel Waterhouse.

3.—D. D. Akerman,
Samuel W. Larrabee,
William L. Alden.

4.—James D. Seavey,
B. F. Chadbourn,
Samuel S. Webster.

Ward 5.—Stevens Smith,
N. A. Foster,
John Lynch.

6.—William W. Thomas,
John W. Lane,
G. A. Churchill,

7.—Levi Weymouth,
Lewis B. Smith,
John W. Rand.

CYRUS NOWELL, *Clerk.*

1860.

MAYOR.

JOSEPH HOWARD.

ALDERMEN.

Ward 1.—Emery Cushing,
2.—J. W. Dyer,
3.—J. R. Thompson,
4.—Samuel Trask,

Ward 5.—Charles P. Kimball,
6.—H. J. Libby,
7.—J. S. Palmer.

COMMON COUNCIL.

O. M. MARRETT, PRESIDENT.

Ward 1.—George W. Beal,
George Trefethen,
H. C. Lovell.

2.—John Barbour,
E. D. Choate,
Samuel Rounds.

3.—S. W. Larrabee,
John Lynch,
Otis Cutler.

4.—W. L. Putnam,
Thomas Parker,
B. F. Chadbourn.

Ward 5.—E. G. Bolton,
Ezra Russell,
O. M. Marrett.

6.—William W. Thomas,
John W. Lane,
George A. Churchill.

R. M. Richardson,
Simeon Shurtleff,
Charles H. Stuart.

D. H. INGRAHAM, *Clerk.*

1861.

MAYOR.

WILLIAM W. THOMAS.

ALDERMEN.

Ward 1.—Moses Gould,
2.—John E. Donnell,
3.—S. W. Larrabee,
4.—Samuel Trask,
5.—Charles P. Kimball,
6.—Edward Hamblen,
7.—Levi Weymouth.

COMMON COUNCIL.

HENRY FOX, PRESIDENT.

Ward 1.—George Trefethen, William A. Winship, Daniel Brown.
2.—Dorvill Libby, Charles H. Osgood, Rufus Beal.
3.—John Lynch, James Bailey, John True.
4.—W. L. Putnam, George H. Chadwick, Sewell Waterhouse.
5.—Orland M. Marrett, Gardner Ludwig, Charles W. Strout.
6.—Thomas A. Roberts, Henry Fox. Benjamin Stevens, Jr.
7.—Jonathan H. Fletcher, Risworth Rich, William H. Stewart.

IRA J. BATCHELOR, *Clerk.*

1862.

MAYOR.

WILLIAM W. THOMAS.

ALDERMEN.

Ward 1.—Moses Gould,
2.—R. C. Webster,
3.—S. W. Larrabee,
4.—William L. Putnam,
5.—A. K. Shurtleff,
6.—Thomas R. Jones,
7.—D. H. Furbish.

COMMON COUNCIL.

HENRY FOX, PRESIDENT.

Ward 1.—William A. Winship, Increase Pote, Daniel Brown.
2.—C. H. Osgood, Rufus Beal, Dorville Libby.
3.—James Bailey, John True, Charles Holden.
4.—George H. Chadwick, James McGlinchy, Sewall Waterhouse.
5.—Gardner Ludwig, E. H. Davies, Henry Trickey.
6.—Henry Fox, Benjamin Stevens, Jr. T. E. Twitchell.
Ward 7.—William H. Stewart, Samuel E. Spring, J. H. Fletcher.

IRA J. BATCHELOR, *Clerk.*

1863.

MAYOR.

JACOB McLELLAN.

ALDERMEN.

Ward 1.—George W. Beal,
2.—F. C. Moody,
3.—S. W. Larrabee,
4.—Benjamin Larrabee, 2d,

Ward 5.—Stevens Smith,
6.—F. G. Messer,
7.—William H. Stewart.

COMMON COUNCIL.

THOMAS E. TWITCHELL, PRESIDENT.

Ward 1.—Increase Pote,
William Brown,
J. D. Snowman.

2.—S. Whitmore,
Henry L. Paine,
Samuel Waterhouse.

3.—Charles Holden,
John True,
James Bailey.

4.—James McGlinchy.
J. H. Harmon,
C. H. Fling.

Ward 5.—Gilbert L. Bailey,
Edmund Phinney,
George L. Storer.

6.—T. E. Twitchell,
J. R. Hamlen,
T. E. Stewart.

7.—C. K. Ladd,
Joseph Johnson,
Brown Thurston.

IRA J. BATCHELOR, *Clerk.*

1864.

MAYOR.

JACOB McLELLAN.

ALDERMEN.

Ward 1.—George W. Beal,
2.—Franklin C. Moody,
3.—John E. Donnell,
4.—John G. Hayes,

Ward 5.—Stevens Smith,
6.—F. G. Messer,
7.—Wm. H. Stewart.

COMMON COUNCIL.

JAMES H. HAMLIN, PRESIDENT

Ward 1.—Increase Pote,
Wm. Brown,
J. D. Snowman.

2.—S. Whittemore,
Jere Howe,
Wm. G. Soule.

3.—John T. Gilman,
C. H. Burr,
Cyrus Nowell.

4.—A. P. Morgan,
C. A. Gilson,
Edwin Clemens.

Ward 5.—G. L. Storer,
Gilbert L. Bailey,
Edmund Phinney.

6.—J. H. Hamlen,
T. E. Stewart,
Eben Corey.

7.—C. K. Ladd,
Joseph Johnson,
Brown Thurston.

IRA J. BATCHELOR, *Clerk.*

1865.

MAYOR.

JACOB McLELLAN.

ALDERMEN.

Ward 1.—Thomas S. Jack,
2.—Stephen Whittemore,
3.—John E. Donnell,
4.—A. P. Morgan,
5.—Edmund Phinney,
6.—Wm. L. Southard,
7.—George F. Foster.

COMMON COUNCIL.

GILBERT L. BAILEY, PRESIDENT.

Ward 1.—Joseph S. York, Charles Bailey, John J. Gerrish,
2.—Jere Howe, George G. Soule, C. M. Rice.
3.—Cyrus Nowell, C. H. Burr, Daniel Plummer.
4.—Charles A. Gilson, W. C. Robinson, Joseph Bradford.
5.—Gilbert L. Bailey, Thomas F. Cummings, A. P. Fuller.
6.—Eben Corey, E. P. Gerrish, Charles Staples, Jr.,
7.—Ambrose Giddings, F. W. Clark, John M. Brown.

IRA J. BATCHELDER, *Clerk.*

1866.

MAYOR.

AUGUSTUS E. STEVENS.

ALDERMEN.

Ward 1.—Thomas S. Jack,
2.—Stephen Whittemore,
3.—Charles Holden,
4.—A. P. Morgan,
5.—Edmund Phinney,
6.—Wm. L. Southard,
7.—Ambrose Giddings.

COMMON COUNCIL.

CHARLES M. RICE, PRESIDENT.

Ward 1.—J. J. Gerrish, J. S. York, J. W. Brackett.
2.—C. M. Rice, D. W. Fessenden, S. H. Colesworthy,
3.—Daniel Plummer, J. B. Mathews, Augustus D. Marr.
4.—C. A. Gilson, W. C. Robinson, Joseph Bradford.
5.—A. P. Fuller, Wm. Gray, W. P. Files.
6.—E. P. Gerrish, Charles Staples, Jr., C. R. Milliken.
7.—F. W. Clark, Wm. H. Phillips, Elias Chase.

IRA J. BATCHELOR, *Clerk.*

1867.

MAYOR.

AUGUSTUS E. STEVENS.

ALDERMEN.

Ward 1.—Russel Lewis,
2.—Charles M. Rice,
3.—Wm. Deering,
4.—C. A. Gilson,
Ward 5.—Gilbert L. Bailey,
6.—Thomas Lynch,
7.—Ambrose Giddings.

COMMON COUNCIL.

FRANKLIN FOX, PRESIDENT.

Ward 1.—H. H. Burgess, J. S. Winslow, James Knowlton.
2.—S. H. Colesworthy, Franklin Fox, George W. Green.
3.—J. B. Mathews, Albert Smith, J. A. Thompson.
4.—Wm. C. Robinson, Joseph Bradford, J. C. Shirley.
Ward 5.—Wm. Gray, W. P. Files, A. D. Marr.
6.—C. R. Milliken, A. P. Fuller, Frederic N. Dow.
7.—Elias Chase, W. H. Phillips, Wm. E. Gould.

F. A. GERRISH, *Clerk.*

1868.

MAYOR.

JACOB McLELLAN.

ALDERMEN.

Ward 1.—Russell Lewis,
2.—Samuel Rounds,
3.—William Deering,
4.—Ezra Carter, Jr.
Ward 5.—Albert Maverick,
6.—Francis Fessenden,
7.—William E. Gould.

COMMON COUNCIL.

GEORGE A. WRIGHT, PRESIDENT.

Ward 1.—Henry H. Burgess, Jacob S. Winslow, James Knowlton.
2.—John W. Swett, Michael Lynch, William Goold.
3.—John A. Thompson, Albert Smith, James Noyes.
4.—James H. Harmon, George H. Chadwick, Charles McCarthy, Jr.
Ward 5.—Augustus D. Marr, Joseph K. Merrill, Marquis F. King.
6.—Fred N. Dow, George A. Wright, Charles E. Jose.
7.—John F. Leavitt, Cullen C. Chapman, William A. Winship.

F. A. GERRISH, *Clerk.*

1869.

MAYOR.

WILLIAM L. PUTNAM.

ALDERMEN.

Ward 1.—William Curtis,
2.—Samuel Rounds,
3.—Daniel Plummer,
4.—Ezra Carter,
5.—George P. Wescott,
6.—George A. Wright,
7.—Sewall C. Strout.

COMMON COUNCIL.

JAMES H. HARMON, PRESIDENT.

Ward 1.—Charles Merrill, John H. Gaubert, John O. Rice.
2.—John W. Swett, William Gould, James Quinn.
3.—James Noyes, Eben A. Sawyer, Joseph H. Coffin.
4.—James H. Harmon, Charles McCarthy, Jr., Edward H. Daveis.
5.—Robert B. Henry, Joseph M. Plummer, George A. Walden.
6.—Charles E. Jose, Richard O. Conant, Frederick Fox.
7.—James M. Kimball, Henry Thing, Paschal B. Bailey.

GEORGE L. SWETT, *Clerk.*

1870.

MAYOR.

BENJAMIN KINGSBURY, JR.

ALDERMEN.

Ward 1.—William Curtis,
2.—Timothy B. Tolford,
3.—William Senter,
4.—Charles McCarthy, Jr.
5.—George P. Wescott,
6.—James Bailey,
7.—William A. Winship.

COMMON COUNCIL.

FREDERICK FOX, PRESIDENT.

Ward 1.—Charles Merrill, John O. Rice, James Cunningham.
2.—William H. Simonton, John W. Swett, Francis B. Barr.
3.—Lorenzo Taylor, William P. Hastings, Joseph F. Laud.
4.—Edward H. Daveis, Leander Stevens, Orrin S. Fogg,
5.—George H. Waldron, Abner O. Shaw, Charles B. Nash,
6.—Richard O. Conant, Frederick Fox, Isaac Jackson.
7.—John F. Leavett, Charles C. Tolman, James E. Haseltine.

BENJAMIN BARNES, Jr. *Clerk.*

1871.

MAYOR.

BENJAMIN KINGSBURY, JR.

ALDERMEN.

Ward 1.—Charles Merrill.
2.—William H. Simonton,
3.—William Senter,
4.—Charles McCarthy, Jr.
Ward 5.—Marquis F. King,
6.—Eben Corey.
7.—William A. Winship.

COUNCIL COUNCIL.

JAMES E. HAZELTINE, PRESIDENT.

Ward 1.—James Cunningham,
John H. Gaubert,
Charles Stanwood.

2.—John W. Swett,
William McAleney,
Eugene F. Austin.

3.—Charles Holden,
William H. Josselyn,
Samuel S. Rich.

4.—Edward H. Daveis,
Orrin S. Fogg,
Seth C. Gordon.

Ward 5.—Abner O. Shaw,
Micah Sampson,
Lyman N. Kimball.

6.—Isaac Jackson,
William H. Fessenden,
Edwin Clement.

7.—Charles C. Tohnan,
James E. Haseltine,
Frederick W. Clark.

BENJAMIN BARNES, JR., *Clerk.*

1872.

MAYOR.

BENJAMIN KINGSBURY, JR.

ALDERMEN.

Ward 1.—Joseph S. York,
2.—George C. Littlefield,
3.—William H. Josselyn,
4.—Charles McCarthy, Jr.
Ward 5.—Marquis F. King,
6.—Eben Corey,
7.—William A. Winship.

COMMON COUNCIL.

WILLIAM H. FESSENDEN, PRESIDENT.

Ward 1.—John F. Randall,
Henry P. Dewey,
Edward N. Greely.

2.—Edward Thurston,
Augustus F. Cox,
Hiram H. Rich.

3.—Samuel S. Rich,
William L. L. Gile,
Alphonso Brunel.

4.—Edward H. Daveis,
John Yeaton,
Thomas A. Foster.

Ward 5.—Micah Sampson,
Lyman N. Kimball,
Ezra N. Perry.

6.—Edwin Clement,
William H. Fessenden,
Henry C. Newhall.

7.—Frederick M. Clark,
Stephen R. Small,
Chauncy Barrett.

BENJAMIN BARNES, JR., *Clerk.*

1873.

MAYOR.

GEORGE P. WESCOTT.

ALDERMEN.

Ward 1.—Joseph S. York,
2.—William Goold,
3.—Zemro A. Smith,
4.—Edward H. Davis,

Ward 5.—Micah Sampson,
6.—Edwin Clement,
7.—Frederick W. Clark.

COMMON COUNCIL.

STEPHEN R. SMALL, PRESIDENT.

Ward 1.—John F. Randall,
Edward N. Greely,
Charles E. Trefethen.

2.—William McAleney,
Moses Y. Knight,
Angus J. McMahon.

3.—Edward Thurston,
Alphonso Brunel,
Oren B. Whitten,

4.—Samuel F. Merrill,
Harris W. Gage,
John S. Russell.

Ward 5.—Ezra N. Perry,
Stephen Marsh,
Thomas A. Roberts.

6.—Henry Fox,
Frederick F. Hale,
Payson Tucker.

7.—Stephen R. Small,
Daniel W. Nash,
William H. Green.

BENJAMIN BARNES, Jr., *Clerk.*

1874.

MAYOR.

GEORGE P. WESCOTT.

ALDERMEN.

Ward 1.—John J. Gerrish,
2.—William Goold,
3.—Zemro A. Smith,
4.—Edward H. Daveis,

Ward 5.—Micah Sampson,
6.—Edwin Clement,
7.—Frederick W. Clark.

COMMON COUNCIL.

STEPHEN R. SMALL, PRESIDENT.

Ward 1.—Charles E. Trefethen,
William E. Dennison,
Rensselaer Greely.

2.—William McAleney,
Augustus J. McMahon,
Leonard Pennell.

3.—Edward Thurston,
Alphonso Brunel,
Oren B. Whitten.

4.—Samuel F. Merrill,
Hanno W. Gage,
David D. Hannegan.

Ward 5.—Ezra N. Perry,
Stephen Marsh,
Thomas A. Roberts.

6.—Henry Fox,
Frederick F. Hale,
Lemuel M. Lovejoy.

7.—Stephen R. Small,
Daniel W. Nash,
William H. Green.

BENJAMIN BARNES, JR., *Clerk.*

1875.

MAYOR,

ROSWELL M. RICHARDSON.

ALDERMEN.

Ward 1.—John J. Gerrish,
2.—John B. Littlefield,
3.—Alphonso Brunel,
4.—Hanno W. Gage,
Ward 5.—Ezra N. Perry,
6.—Henry Fox,
7.—Samuel Waterhouse.

COMMON COUNCIL.

FREDERICK F. HALE, PRESIDENT.

Ward 1.—Renssalaer Greely,
William E. Dennison,
Horace H. Shaw.

2.—James Cunningham,
Augustus J. McMahon,
Leonard Pennell.

3.—John Cammett,
William W. Roberts,
Lyman W. Cousens.

4.—David D. Hannegan,
John S. Russell,
Isaac D. Cushman.

Ward 5.—Charles Walker,
James W. Plaisted,
George A. Harmon.

6.—Frederick F. Hale,
Lemuel M. Lovejoy,
Cyrus L. Gallison.

7.—William T. Small,
Albert Q. Leach,
Harrison B. Brown.

BENJAMIN BARNES, JR., *Clerk.*

1876.

MAYOR.

FRANCIS FESSENDEN.

ALDERMEN.

Ward 1.—Renssalaer Greely,
2.—John B. Littlefield,
3.—Lorenzo Taylor,
4.—Isaac D. Cushman.
Ward 5.—Ezra N. Perry,
6.—Henry Fox,
7.—Samuel Waterhouse.

COMMON COUNCIL.

WILLIAM T. SMALL, PRESIDENT.

Ward 1.—William E. Dennison,
James Knowlton,
John E. Noyes.

2.—James Cunnigham,
Willlam H. Sargent,
John Gooding, Jr.

3.—Lyman M. Cousens,
John Cammett,
William W. Roberts,

4.—David D. Hannegan,
John S. Russell,
Benjamin F. Andrews.

Ward 5.—Charles Walker,
Stephen Marsh,
Nathan E. Redlon.

6.—Cyrus L. Gallison,
Benjamin C. Somerby,
Albion Little.

7.—William T. Small,
Albert Q. Leach,
Harrison B. Brown.

BENJAMIN BARNES, Jr., *Clerk.*

1877.

MAYOR.

MOSES M. BUTLER.

ALDERMEN.

Ward 1.—Renssalaer Greely,
2.—James Cunningham,
3.—Alphonso Brunel,
4.—Isaac D. Cushman,

Ward 5.—Charles Walker,
6—James E. Haseltine,
7.—William T. Small.

COMMON COUNCIL.

ALBION LITTLE, PRESIDENT.

Ward 1.—James Knowlton,
John E. Noyes,
Edward H. Sargent,

Ward 2.—William H. Sargent,
John Gooding, Jr.
George H. Coyle.

3.—William W. Latham,
Albert Smith,
Robert L. Morse,

4.—Benjamin F. Andrews,
James L. Hayden,
Charles F. Swett.

Ward 5.—Nathan E. Redlon,
Hanson S. Clay,
Leonard Jordan.

6.—Albion Little,
Thomas H. Haskell,
James E. Sturges,

7.—Charles J. Chapman,
Sumner Libby,
Ashbel Chaplin.

L. CLIFFORD WADE, *Clerk.*

1878.

MAYOR.

MOSES M. BUTLER.

ALDERMEN.

Ward 1.—Reuel S. Maxcy,
2.—James Cunningham,
3.—Alphonso Brunel,
4.—Isaac D. Cushman,

Ward 5.—Hanson S. Clay,
6.—James E. Haseltine,
7.—William T. Small.

COMMON COUNCIL.

CHARLES J. CHAPMAN, PRESIDENT.

Ward 1.—Edward H. Sargent,
Samuel Thurston,
Iaac Hamilton.

2.—George H. Coyle,
William Mclaugh,
Emery S. Ridlon.

3.—William W. Latham,
Albert Smith,
Robert L. Morse.

4.—Benjamin F. Andrews,
Dennis Tobin,
Charles F. Swett.

Ward 5.—Leonard Jordan,
James H. Hall,
Simon A. Dyer.

6.—Thomas H. Haskell,
James E. Sturgis,
Jacob W. Robinson.

Ward 7.—Charles J. Chapman,
Sumner Libby,
Ashbel Chaplin.

L. CLIFFORD WADE, *Clerk.*

1879.

MAYOR.

GEORGE WALKER.

ALDERMEN.

Ward 1.—Albert H. Waite,
2.—James Cunningham,
3.—Albert Smith,*
4.—Benjamin F. Andrews.
Ward 5.—Hanson S. Clay,
6.—Perez B. Burnham,
7.—William T. Small.

COMMON COUNCIL.

CHARLES J. CHAPMAN, PRESIDENT.

Ward 1.—Sumner Barbour, Thomas H. Gately, Nathaniel Haskell.
2.—George H. Coyle, William Mclaugh, George W. Rice.
3.—John C. Tukesbury, Willard C. G. Carney, George H. Abbott.
4.—Montgomery S. Gibson, James E. Trickett, John G. Fitzgerald.
Ward 5.—James H, Hall, Simon A. Dyer, Aurin L. Dresser.
6.—Jacob W. Robinson, William M. Marks, Charles D. B. Fisk.
7.—Charles J. Chapman. Sumner Libby. Ashbel Chaplin.

L. CLIFFORD WADE, *Clerk.*

1880.

MAYOR.

WILLIAM SENTER.

ALDERMEN.

Ward 1.—Edward H. Sargent,
2.—Thomas Hassett,
3.—Lorenzo Taylor,
4.—Benjamin Andrews,
Ward 5.—John W. Deering,
6.—Albion Little,
7.—Charles J. Chapman.

COMMON COUNCIL.

CHARLES D. B. FISK, PRESIDENT.

Ward 1.—Samuel Thurston, William G. Soule, Richard K. Gatley.
2.—Edward Duddy, Arthur H. Harding, Daniel M. Mannix.
3.—John C. Tukesbury, Willard C. G. Carney, George H. Abbott.
4.—James E. Fickett, Henry I. Nelson, Edward A. Jordan.
Ward 5.—James H. Hall, Jairus Talbot, Whitman Sawyer.
6.—William M. Marks, Charles D. B. Fisk, Sylvester Marr.
7.—Holman S. Melcher, Thomas J. Little, William H. Pennell.

L. CLIFFORD WADE, *Clerk.*

* Died May 4th, Lorenzo Taylor elected May 19th, to fill vacancy.

1881.

MAYOR.

WILLIAM SENTER.

HOSEA I. ROBINSON, CITY CLERK.

ALDERMEN.

CHARLES J. CHAPMAN, CHAIRMAN,

Ward 1.—Edward H. Sargent,
2.—Thomas Hassett.
3.—John C. Tukesbury.
4.—Edward B. Winslow,
Ward 5.—John W. Deering,
6.—Albion Little.
7.—Charles J. Chapman.

COMMON COUNCIL.

SAMUEL THURSTON, PRESIDENT.

Ward 1.—Samuel Thurston,
William G. Soule,
Richard K. Gately.

2.—Edward Duddy,
John V. Bradley,
Robert M. Gould.

3.—Augustus H. Prince,
Horatio Clark,
Samuel B. Kelsey.

4.—Charles M. Cushman,
William McAleney,
John Sullivan, Jr.

Ward 5.—Whitman Sawyer,
Jarius Talbot.
James F. Hawkes.

6.—Sylvester Marr,
Thomas Shaw,
Charles D. Brown.

7.—Holman S. Melcher,
William H. Pennell,
Stephen B. Winchester.

L. CLIFFORD WADE, *Clerk.*

City Clerks of Portland.

NAMES.	TERMS OF OFFICE.
Joseph Pope,	1832, to 1841.
Albert Smith,	1842.
Amos Nichols,	1843.
William Boyd,	1844, to 1855.
James Merrill,	1856.
William Boyd,	1857, to 1859.
James Todd,	1860.
Jonathan N. Heath,	1861, to 1868.
George C. Hopkins,	1869.
Hosea I. Robinson,	1870, to 1881.

INDEX.

INDEX.

ABSENTEES from school, provisions respecting, 432. See Truants.

ABUSED and neglected children. See Children, 110.

ACCOUNTS, committee on, 182. See Finance.

ACTIONS. See Elections, 169.

See Fire Department, 190–192.

See Gunpowder, 224.

See Steam, 458.

See Streets, 468–474, 475.

See Taxes, 527–530.

ACTS, to confer certain powers on the city of Portland, 25.

authorizing the city to aid in the construction of the Atlantic and St. Lawrence Railroad, 363, 369, 379, 381, 384, 391.

to aid Portland and Ogdensburg Railroad Company, 391.

to incorporate Portland Gas Light Company, 212, 218, 220.

to incorporate Portland and Forest Avenue Railroad Company, 403, 409.

general railroad acts, 409, 410, 411.

ADULTERATED food or liquors not to be sold, 256.

AGENTS, For sale of liquor appointed, 47.

his legal status, 47, *note*.

compensation, 48.

duty, 48.

term, 48.

vacancy how filled, 48.

to sell to whom, 48.

bond of, 48.

certificate of, 48.

his liquors to be marked, 49.

his liquors not be seized, when, 49.

AGENTS, his adulterated liquors not protected, 49.
not to sell minors, or Indians, or soldiers, or some others, 49.
violating law how punished, 50.
to keep record of sales, 50.
penalty for not keeping record, 50.
penalty for false representations to, 50.
to purchase of State Commissioner, 50.
penalty for not so purchasing or for adulterating, 51.
disposal of funds—ordinance, 51.
to keep account with treasurer, 51.
money received from, how appropriated, 51.
balance to credit of, 51.
AGREEMENT of city of Portland with Atlantic & St. Lawrence Railroad Company, 386.
ALDERMEN, board of to consist of seven, 26.
shall not receive salary, 36.
to prepare list of voters, 157.
one in each ward to be elected, 32.
to be elected by ballot, 32.
to hold office for one year, 32.
shall examine copies of records of wards, 33.
shall notify the mayor elect, 33.
oaths of office, 33.
shall choose a chairman, 34.
city clerk shall be clerk of the board, 36.
their duties. See City Charter, Carriages, Elections, Fire, Gunpowder, Health, Jurors, Liquor Agent, Nuisances, Riots, Streets.
ALLEYS. See Bowling Alleys, Streets.
ALMS HOUSES. See Paupers.
AMUSEMENTS, penalty for exhibition of without license, 53.
licenses and regulations for, 53.
ANIMALS, certain, fast driving of in the streets prohibited, 489.
not to run at large, 489.
not to be frightened, 489.
not to go upon sidewalk, 489.
with wood for sale, not to be fed in street, 578.
APPEAL, for damages of laying new streets. See Streets.
to supreme court respecting drains, &c. See Drains and Sewers.

APPRENTICES, poor children may be bound out by overseers of poor, 331.
See Paupers.
APPROPRIATIONS, when expenditures exceed, notice to be given, 138.
AQUEDUCTS, pipes and conduits, in certain cases exempt from taxation, 513.
ASSEMBLIES, public, penalty for breaking up, 55.
egress from, 55.
duty of municipal officers, 55, 56, 57.
ASSESSMENT, See drains and sewers.
ASSESSORS, appointed by City Council 27, 28. See Taxes.
duties as to births and deaths, 120.
ASSIZE of Bread, 67.
ASSISTANT ASSESSORS, appointed by city council, 28.
ATLANTIC AND ST. LAWRENCE R. R. See Railroads.
wharves. See harbor of Portland and Wharves.
ATTACHMENT, of property which cannot be removed. See City Clerk, 122.
of vessels on stocks. See City Clerk, 123.
ATTORNEY, COUNTY. See Elections, 163.
AUCTION, goods not to be sold at on street without authority, 60.
lumber obstructing street to be sold at, 480.
AUCTIONEERS, to be licensed, 58.
record of license to be kept, 58.
appeal to county commissioners in case refusal to license, 58.
to keep account of goods sold, 59.
penalty for allowing one not a voter in town to act under, 59.
penalty for receiving goods of minors, 59.
as to sale of certain real estate, 59.
penalty for permitting any one to sell contrary to law, 59.
exceptions as to rules of officers, 60.
fines and special licenses, 60.
not to sell except in places assigned, 60.
AUDITOR, city, elected annually, 113. See Sinking Fund.
to give bond, 113.
case of death, &c., successor appointed, 114.
to examine vouchers, &c., 114.
to countersign drafts, 114.
committee on accounts to direct auditor, &c. 114.
to keep books, 115.
to examine all bills against city, &c., 115.
to make annual estimates and statement of expenditures, 115.
to open account with treasurer, 116.

AUDITOR, duty in case money is paid in advance, on contract, 114.
not over five hundred dollars to be paid without direction of committee on accounts, 114.
to examine sealed proposals, &c., 127.
AWNINGS, and SHADES. See Streets.
BACK COVE FLATS. See Streets, 498.
BALLAST not to be thrown into harbor, 231, 233.
BANKS, real estate of, where taxed, 520.
stock of, where taxed, 520.
cashier of, to exhibit books, 521.
BALLOT BOX, one only allowed. See Elections, 160.
BARK. See Wood.
BATHING, so as to be exposed to view, 456.
BELLS. See Carriages, 89.
ringing for false alarm of fire, 195.
of engines in Commercial Street, 184.
BILLIARD ROOMS, restrictions upon, 73.
BIRTHS, record of. See City Clerk, 119.
BLANK BOOKS AND STATIONERY, contracts for, 138.
BLASTING ROCKS. See Streets, 483.
BOARDS. See Lumber.
BOARD OF ENGINEERS. See Fire.
BOARD OF HEALTH, 256.
BOARD OF TRADE, may appoint pilots, 342.
and fix compensation, 342.
BOATS AND LIGHTERS, to be marked and inspected, 61.
penalty for using unmarked, or falsely, 61.
inspectors of, 61.
penalty for throwing ballast into any road from, 61.
BODY. See Health, 260, 274, 275. See Cemeteries, 93.
BOND, of agent for sale of liquor, 48.
of person licensed to keep bowling alley or billiard room, 54.
of weigher of hay, 570.
of collector of taxes, 525.
BONDS. See Finance, 184, 185.
See Railroads, 364, 367, 370, 389, 407.
BONFIRE. See Fire Department, 194.
BOOKS, for school children. See Schools, 439.

BOUNDARY LINES of Portland, 63.
perambulations of, 64.
monuments to be erected on, 64.
disputed, how settled, 64.
to be run once in ten years, 64.
BOW AND ARROW. See Streets, 484.
BOWLING ALLEYS and billiard rooms, license for, 53.
penalty for keeping without license, 53.
licenses, how granted, 54.
bond to be given, 54.
bond violated, license revoked, 54.
penalty for violation, 54.
BOXES. See Streets, 495.
BRAKEMEN. See Streets, 491.
BREAD, assize of, 67.
BRICKS, burning of, in parts of a town. See Fire Department.
kilns, prohibited by vote; fine, 193.
BRIDGES, PRIDES, 69.
STROUDWATER, 69.
VAUGHAN'S BRIDGE, original provisions of incorporation, 69.
became free bridge, 68.
draw, construction and regulation of, 70.
expense of building, how paid, 70.
territorial limits, 71
DEERING'S BRIDGE, when laid out, 71.
BACK COVE BRIDGE, original provisions of incorporation, 71.
location, restrictions, 72.
draw and piers, 72.
to be transferred to city, 72.
to be toll free, 72.
may be constructed for purposes of a draw, 72.
draw to be kept, 72.
vessels to pass free of expense, 72.
tax may be assessed for support of, 72.
PORTLAND BRIDGE, incorporated, 73.
location, 73.
draw and piers, 73.
vessels to pass free of expense, 73.
surrender to county, 73.
acceptance as a free bridge, 73.
side passage to Canal street to be built, 74.

BRIDGES AND WAYS, towns may raise money for repair of, as other taxes, 472.
BUILDINGS, demolishment of, at fires, 190.
occupations of, by livery stable keeper, sailmakers, and riggers, restrictions upon, 75.
penalty therefor, 75.
penalties for injuring or defacing, 76.
wooden, erection of, over 10 feet high, forbidden without permission of mayor and aldermen, 77.
wooden, cities may make by-laws respecting their erection, 75.
penalty therefor, 75.
notice to be given of intention to build, 76.
mayor and aldermen may cause numbers to be affixed to, 77.
penalty for numbering contrary to directions, 77.
cellar doors and platforms regulated, 77.
to be lighted when open at night, 78.
penalty for defacing, 78.
bills or posters not to be placed on, 79.
dangerous, to constitute a nuisance. See Nuisances, 317.
unsafe. See Assemblies.
erected and used for manufactures which cause offensive exhalations, 319.
for manufacture of gunpowder, 320.
not to obstruct streets, 485.
not to be drawn or moved through streets without permit of mayor and aldermen, 485.
bond to be given, 485.
remaining beyond time permitted, to be removed, &c. at expense of the owner, 485.
snow and ice falling from, to be removed. See Public Buildings and Streets, 497.
BURIALS. See Cemeteries, Health.
BURNED DISTRICT, rebuilding of, 416. See Title Rebuilding of Burned District.
BURYING GROUNDS. See Cemetaries, Health.
BY-LAWS, enacting style, 325. See Charter.
CARRIAGES, drivers shall turn to the right, 80.
not to travel without a driver, 80.
not to obstruct the road, 80.
bells to be attached to horses with sleigh or sled, 80.
drivers shall not leave horses unfastened, 80.

CARRIAGES, cities may establish rules and regulations respecting, 80.
may annex penalties, 80.
hackney carriages defined. 81.
no person to set up, &c., without a license, 81.
no person to drive without a license, 81.
penalties, 81.
licenses to be granted, 82.
may be revoked, 82.
record of licenses to be kept by city marshal, 82.
one dollar to be paid for license, 82.
marshal to make report of, and pay over sum for licenses, 82.
when to expire and how transferred, 82.
license to be endorsed by clerk, 82.
who shall be liable for forfeiture, &c., 82.
penalty for not taking out and paying for license, 82.
manner of marking and numbering, 83.
no other number to be used, 83.
carriage and horse not to be left except, &c., 83.
shall not stand except in place assigned, 83.
shall not stop abreast of other carriages, 84.
shall not stop to obstruct streets, &c., 84.
driver shall wear badge, 84.
runners shall not be employed, 84.
mayor may give directions for standing and route, 84.
rates of fare, 85.
amount of baggage to be carried, 85.
carriages to be inspected, 86.
carriages not to be driven by a minor, unless, &c., 86.
OMNIBUSES, license for, may specify time of starting, 86.
not to start until five minutes after preceding one, 86.
stopping of regulated, 87.
shall not leave designated route, 87.
TRUCKS, WAGONS, DRAYS, CARTS, HAND-CARTS, SLEIGHS, SLEDS AND HAND-SLEDS, to be licensed, 87.
not to be used without license, 87.
licenses to be granted for, 88.
may be revoked, 88.
fee for license, 88.
marshal to make report of, and pay over sum for same, 88.
when license shall expire, 88.

CARRIAGES, license to be endorsed by clerk, 88.
how licenses shall be transferred, 88.
who shall be liable to forfeitures, 88.
penalty for using for unlawful purposes, 88.
paces at which horses shall go, 88.
persons licensed, to obey rules and regulations, 89.
CARRIAGES IN GENERAL, bells required when snow is on the ground, 89.
shall not stop so as to obstruct foot passengers, 89.
how trucks, &c., shall be placed, 90.
loading and unloading regulated, 90.
stands may be assigned, 90.
carts, &c., to be placed near sidewalks, 60.
not more than one range to be placed in street, 91.
horses harnessed not to be fed on sidewalks, 91.
riding upon outside of carriages forbidden, 91.
driver forbidden to transport dead body, 91.
CARTS, regulated, 87.
CASHIERS, of banks to exhibit books, 521.
CASK. See Sidewalk, 495.
CATTLE, not to go at large, 489.
CELLAR DOORS, regulated. See Streets, 487.
CEMETERIES, penalty for injury to monuments in, 92.
may be enlarged on certain conditions, 93.
medical act of 1881, 93.
disposition of bodies under same, 93.
taxation, exemption of, 93. Note.
public from private, 93. Note.
city may make by-laws about Evergreen. Existing, ordinances made valid, 42, 94.
EVERGREEN CEMETERY, land, 94.
trustees, 95, 96.
superintendent, 97.
occupancy of lots, 97.
fund, 98.
account, 99.
burial on lots, 99.
lots, general directions, 100.
stones and monuments, 101.
trees, 101.
grades, 101.

CEMETERIES, care of lots, 102.
water, 102.
loaded teams prohibited, 103.
horses unfastened, 103.
noises prohibited, 103.
personal interest of officers in contract, 104.
transportation, &c., of trustees, 104.
undertakers, 104, 105.
perpetual care, 106.
description of. See City Clerk, 124.
FOREST CITY CEMETERY, land, 107.
city treasurer to keep record, 107.
superintendent, 108.
committee authorized to enlarge, 108.
sale of lots, 108.
committee on cemeteries to be appointed, 108.
to have custody of cemeteries, promenades, &c., 109.
penalty for removing gravel from cemeteries or any public ground, 109.
CERTIFICATE of agent for sale of liquor, 48.
of appointment of officers of fire department, 196.
of lunacy. See Lunatics, 301.
of inability to pay for support of lunatics, 302.
of marriage. See City Clerk, 118, 119.
See Schools, 436.
CHARCOAL. See Wood.
CHARTER. See City Charter.
CHECK LIST. See City Clerk, 125.
See Elections, 160, 163.
CHIEF ENGINEER. See Fire Department.
CHILDREN, abused and neglected, hearing on cases, 110.
duty of municipal officers, 110.
complaint to court, 111.
magistrate may place in control of private person, 111.
custody to be taken in some cases by municipal officers, 111.
parents may apply to have custody restored, 112.
expense of support, 112.
towns may provide for support, 112.
poor, may be bound out, 331.
employment of in manufactories, 305.

CHILDREN, non resident, 446.
between certain ages required to attend school, unless, &c., 431–445.
See Schools, Truants.
CHIMNEYS, defective, repaired at order of municipal officers. See Fire Department, 191.
CITIZENS, meetings of. See Charter, and Elections.
general meetings, 36.
CITY AUDITOR. See Auditor.
CITY BUILDINGS. See Constable and Messenger, 128.
CITY CLERKS. See Clerk.
CITY ENGINEER. See Engineer.
CITY FARM, teams of city kept at. See Streets, 479.
CITY HALL, erection and use of, 133.
CITY HAY SCALES, weigher of hay to have control of, 244.
CITY MARSHAL. See Marshal.
CITY PHYSICIAN. See Health, 262.
CITY PROPERTY. See Charter.
CITY SEAL. See Seal of City.
CITY SOLICITOR. See Solicitor.
CITY TREASURER. See Treasurer, Finance, Railroads.
CLERK, CITY, shall be clerk of board of aldermen, 36.
general duties under the charter, 36.
shall give notice of ward meetings, 36.
shall perform duties prescribed, 36.
shall act as clerk at citizens' legal meetings, 36.
to endorse transfer of carriage licenses, 82.
to endorse transfer of trucks, &c., licenses, 88.
to keep records of doings of board of aldermen, 126.
of conventions of city council, 126.
to notify persons appointed to office, 126.
to notify chairmen of committees, 126.
to preserve all papers belonging to the city, 126.
to keep ordinance in books, 126.
to procure stationery, 126.
to lay record thereof before city council, 126.
to draw bills and ordinances, 126.
perform duties prescribed, 126.
to make an estimate of stationery and blank books and advertise for sealed proposals, 127.
time of advertisements, 127.

CLERK, CITY, to examine proposals, 127.
to award contracts, with auditor, 127.
to procure other needful articles, 127.
to record notices of intention of marriage, 118.
to keep book for public inspection, 118.
to give certificate of notice of intention of marriage, 118.
penalty for false certificate, 119.
not to isssue certificate to persons under age, 118.
not to issue certificate to paupers, 118.
penalty for same, 118.
duty where marriage is forbidden, 118, 119.
return of marriage to be made to him, 119.
to make annual return to clerk of courts, 119.
to record births and deaths, 119.
parents, &c., to notify clerk, &c., 120.
fees for above duties, 120.
penalty for neglect of above, 120.
to record mortgages of personal property, 121.
mortgages to be recorded, where, 120.
mortgages, how to be redeemed, 121.
mortgages, how foreclosed, 121.
proceedings when mortgages out of State, 122.
Holmes' note, when for more than $30, must be recorded by, 122.
attachment of personal property, how preserved when property cannot be removed, 122.
lien on building and lot must be recorded in clerk's office within thirty days, 123.
vessels on stocks, attachment how made, 123.
record of such attachment, 123.
particulars for enforcing such lien, 123.
record of sales of personal property sold to enforce a lien, 123.
proprietors' records, how preserved, 124.
licensing board, 124.
cemeteries, description of, 124.
pews deemed real estate, 124.
board for preparing list of jurors, 124.
who selected for jurors, 125.
clerk to keep jury box, 125.
tickets in box to be drawn once in three years, 125.
check list, 125.

CLERK, CITY, penalty, 125.
check list to be preserved, 125.
certified copies, 125.
to cause officers to be summoned before him to take oath, 125.
may record his own election, 125.
election of officers recorded, 125.
deputy clerk to do all duties, 125.
to communicate name of treasurer to treasurer of State, 126.
duties of city clerk, 126.
to purchase stationery and blank books, 126.
duties as to drains and sewers, 146.
fire department, 201.
to sign certificate of appointment of officers of fire department, 196.
penalty if guilty of fraud in selection of jurors, 290.
member of licensing board, 281.
to make record of licenses granted, 282.
duty to prosecute violations, 283.
to record licenses for erection of stationary steam engines, 321.
notice of appeal for damages, by laying out streets to be served upon, 465.
to record names of streets, 494.
description of sidewalks, 494.
COACHES, regulated. See Carriages.
COAL HOLES, regulated. See Streets.
COASTING, in streets forbidden. See streets.
COMMERCIAL STREET, speed of trains in, regulated, 490.
engine bell to be rung continually, 490.
brakemen constantly at brakes, 491.
penalties, 491.
articles to be unloaded on southeast side of railroad track, 491.
and shall not be so placed as to obstruct, 491.
engines, &c. not to obstruct streets or passage ways, 491.
side tracks or turnouts not to be laid without, 491.
vessels or boats not to be made fast to coping stones, 492.
penalties, 492.
COMMISSIONER, LIQUOR, to sell city, 50.
COMMISSIONER OF STREETS, to put down monuments when requested by committee on streets or city engineer. See Streets, 479–500.
to give notice to persons to repair streets, 478.
duties respecting grading streets, 478.

COMMISSIONER OF STREETS, to be elected, 478.
to be sworn, 478.
compensation, 478.
to keep streets safe, &c. 478.
to superintend general state of streets, 478.
not to change grade of streets, without, &c. 478.
to make contracts, 478.
to take charge of teams, &c., 478
powers of street commissioners of town of Portland given to, 478.
to pay damages sustained in consequence of neglect of duty, 478.
to be acquainted with lines of streets, &c. 479.
to remove obstructions, 479.
to perform duties prescribed, 479.
to make arrangements for supply of labor, 479.
may have city teams kept at city farm, 479.
to discharge bills contracted once a month, 479.
to render account to aldermen, 479.
to render annual account to city council, 479.
to cause stone monuments to be erected, 479.
to cause drains and aqueducts opened to be repaired, 481.
to remove building materials, &c. obstructing streets, 482.
to superintend the laying of side tracks in Commercial street, 491.
to furnish bricks, &c. to lay sidewalks at expense of city, 493.
to direct laying, &c. 493.
rights and duties not to be limited by construction of ordinance, 498.
encroachment on streets, 499.
gas company to give notice to, of intention to lay down pipes, &c. 504.
company to repair streets to satisfaction of, 506.
if not, commissioner to repair at expense of company, 506.
to certify if work is done to his satisfaction, 504.
COMMON CRIERS. See Criers.
COMPLANTS. See Children, 111.
CONSTABLE AND MESSENGER, CITY, to be appointed by city council, 128.
to deliver notifications, &c., 728.
to arrange rooms, &c., for meetings of city council, 128.
to perform the duties of clerk of the market, 128
to have the superintendence of city hall and city government house, 128.
to have care of ward rooms, 128.
to be subject to orders of city council, 128.

COLLARS. See Dogs, 143.
CONSTABLES, wards to elect two each, 137.
island to elect one, 137.
penalty for not summoning voters, 166.
CONSTABLE, election warrants. See City Clerk, 173.
CONSULTING PHYSICIANS. See Health, 262.
CONTAGIOUS DISEASES. See Health.
CONTRACTS AND EXPENDITURES, member of city government not to vote on any question in which he has a pecuniary interest, 137.
pecuniary interest in any city contract prohibited to members of city government, 137.
proceeding to enforce two preceding rules, 137.
deficiency of appropriations, 137.
contracts not to be concluded where appropriations are deficient, 138.
committees limited in expenditures, 138.
CONTRACTS FOR BLANK BOOKS AND STATIONERY, 138.
contracts made valid. See Finances, 182.
unauthorized contracts by municipal officers may be made valid, 182.
CORDWOOD. See Wood.
COUNCIL, CITY, term includes what, 129.
stated meetings of, 129.
special meetings to be called by the mayor, 129.
of Portland authorized to contract with Gas Company, 214.
See Streets.
COMMON, duty of clerk of, 135.
See Charter.
COUNTY ATTORNEY, See Elections, 163, 167.
COUNTY CONMISSIONERS. See Streets, 469.
COURT, MUNICIPAL, judges of municipal and police courts, appointment of, 313.
Portland municipal court, 313.
jurisdiction of judge, 313.
not to act as attorney or counsel in any case within jurisdiction of his court, 313.
his jurisdiction in cases of larceny and offences against city by-laws, 313.
houses of ill fame, 313.
right of appeal from, 313.
fines, to be accounted for, 314.
jurisdiction when penalty accrues to the city, 314.

COURT, MUNICIPAL, court to be held on Mondays, 314.
recorder, how appointed and qualified, 314.
writs to be under seal of court, bear test of judge and be signed by recorder, 314.
powers of recorder in absence of judge, 314, 315.
in case of vacancy of judge, 315.
justice of the peace substituted in absence of judge and recorder, 314.
provisions when office of judge is vacant, 314.
restrictions on justices of the peace in Portland, 314.
exceptions under laws of United States, 315.
when recorder may issue warrants, 315.
salary of recorder, 315.
vacancy in office of, 315.
costs, how to be taxed, 315.
judge to be appointed, how, 316.
duties and salaries, 316.
PROBATE, judge of may appoint guardians for persons sent to Insane Hospital, 304.
SUPREME JUDICIAL, jurisdiction in regard to finances, 180.
appeal from municipal officers to, 147.
may enjoin. See Harbor of Portland, 232.
aggrieved owner may apply to for jury. See Nuisances, 318.
power of in case of complaints against commissioners of sinking fund. See Railroads, 368.
COURTS, word Streets to include, 497.
COWS, not to go at large, 140.
penalties, city marshal to prosecute, 140.
to wear straps around neck, 140.
CRACKERS. See Fire Department, 193.
CRATE, not to be placed on sidewalk. See Streets, 495.
CRIERS, license to be granted, 141.
crying without license, 141.
to keep list of matters cried, 141.
not to cry libeleous matters, 141.
penalty, 141.
CULLERS OF HOOPES AND STAVES. See Lumber.
CUTLERY, grinding on streets forbidden, 486.
DAMAGED PROVISIONS. See Health, 256.

DAMAGES, person injured by defect in sidewalk may recover not over two thousand dollars, 475.
DANGEROUS DISEASES. See Health.
DEAD BODY. See Body and Health.
DEATHS, registry of. See City Clerk, 119.
DEBT, power of city of Portland to create, 180.
committee on reduction, 450.
See Sinking Fund.
DOGS, tax, may be imposed upon, 143.
towns may pass by-laws, regulating going at large, 142.
owners of, liable for damages done by, 142.
persons assaulted may kill dog, 142.
penalty if owners do not confine a mischievous dog, 142.
dangerous dogs may be killed, 143.
not to go at large without licenses, 143.
licenses to be numbered, 143.
dogs to wear collars, 143.
city marshal to cause dogs at large without collars to be killed, 143.
proceedings when dogs disturb quiet of any person, 143.
penalties to be paid by owner or keeper of dog, 144.
owner of dog assaulting person liable to treble damages, 143.
license by city clerk, 143.
fee for same, 143.
DRAINS AND SEWERS, mayor and aldermen may lay out. See Streets.
ground not to be dug for laying or repairing without consent of mayor and aldermen, See Streets.
to be finished to satisfaction of commissioners of streets. See Streets.
private drains may connect with public, 147.
assessments, 147.
lien for assessments, 148.
permits recorded by city clerk, 147.
for non payment of assessments treasurer may sell lots, 148.
right of redemption, 148.
for non-payment city may sue parties, 148.
record of permits to be kept by city clerk, 147.
general authority of mayor and aldermen, 39 and 149.
private drains, regulations, how constructed, 152.
to be laid in center of street, 152.

DRAINS AND SEWERS, city engineer to supervise, 152.
drains entering public sewers to be made as mayor and aldermen may direct, 153.
not to be laid under side walks, proviso, 153,
not to be let out upon surface of streets, 153.
rain water from roofs may be carried into common sewer, 153.
construction of, notice to be given under law of 1873, 146.
expense, how maintained, 146.
location to be filed with city clerk, 146.
appeal from municipal officers to Supreme Judicial Court, 147.
matter in dispute, how adjusted, 147.
city clerk's duties as to, 146.
DRAYS. See Carriages, 87, 91.
DRIVERS OF CARRIAGES. See Carriages, 80.
ELECTIONS, qualification of electors, 155.
exemption from arrest and military duty on day of election, 156.
written ballot, 156.
soldiers and seamen, 156.
students at colleges and academies, 156.
no loss of residence by reason of absence in military service, 156.
times of election, 156.
who are legal voters, 156.
assessors to prepare lists of voters, 156.
selectmen to prepare corrected list, 157.
meetings to correct list, 157.
in cities of 1,000 voters, 157.
aldermen to be in session to receive applications of persons claiming a right to vote, 157.
three aldermen to be a quorum, 157.
notice of session given in warrant, 158.
aldermen of cities of 10,000 inhabitants, to be in session four days before election, 158.
no names shall be entered on the list of voters in cities and towns having 1000 or more registered voters except on the three secular days preceding election, 158.
list of voters resident in wards to be posted in cities having more than 1000 voters, 158.
removals from ward to ward, 158.
lists to be deposited with clerk and posted, 159.
names not to be added or stricken out except as provided, 159.

ELECTIONS, how added, 159.
selectmen's duty respecting papers of naturalization, 159.
mode of warning meetings for election of governor, &c., 160.
times of opening and closing meetings in certain towns, 160.
what votes on one list, 160.
check list required, 160.
one ballot box only allowed, 160.
votes on white paper without marks, 160.
when no choice of representatives is effected, 161.
meetings for choice of certain officers and for determining questions, 161.
results of ballotings, how ascertained, 161.
clerk to transmit returns of votes to secretary of State, 162.
county attorney to be notified if return not received, 163.
loss of returns how supplied, 163.
oath to be made to copy of record, 163.
certificate, how sealed and returned, 163.
vacancies, how filled in towns not classed for representation, 163.
check list to be preserved by clerks of towns, certified copies, 163.
ballot boxes, how constructed and used, 164.
votes, how received, 164.
officers, duties of, 164.
penalties in certain cases, how recovered, 164.
electors in cities to meet in wards, 164.
warden to preside, 164.
warden *pro tempore* may be chosen, 164.
in cities, names of representatives on same lists as other officers, 164.
if no choice, further meetings, 165.
vacancies by death and otherwise, 165.
wardens and clerks in cities, how elected, term of office of, 165.
penalty for neglect to perform duties required of selectmen, 165.
penalty for neglect of municipal officers to issue warrants for meetings for choice of officers, 165.
penalty, how recovered and by whom, 165.
penalty for neglect of constable to summon voters, 166.
penalty for willful neglect to be recovered by indictment, 166.
penalty for neglect to deposit and post lists, 166.
penalty for neglect to keep check lists, or to reject illegal votes, 166.

ELECTIONS, penalties, how recoverable, 166.
penalty for municipal officer striking names from list without notice, 166.
penalty for altering, erasing or mutilating names on the check list and for voting in the name of another, 167.
penalty for neglect to supply lost return, 167.
penalty for making false certificate, 167.
penalty for neglect of persons to whom returns are entrusted to deliver them, 167.
county attorney to prosecute for wilful negligence in delivering returns, 167.
liability of town officers limited, 168.
but neglect to be deemed wilful unless contrary is shown, 168.
punishment for misconduct of voters, 168.
penalty of militia officers for parades on election day, 168.
punishment for bribery and corruption, 168.
intentionally voting when not entitled, 169,
betting on elections prohibited, 169.
election of fire engineers. See Fire Department, 196. See Charter.
mayor or treasurer to sue for penalty for betting, 169.
money paid on wager to be recovered by action on case, 169.
conveyances by reason of wager to be void, 169.
value forfeited to town or city, 169.
islands of city of Portland to constitute two wards as to election of certain officers, 170.
what islands constitute the different wards, 170.
proceedings at election in same, 170.
mode of determining officers elected in state election, 170.
how notified, 170.
how to ascertain highest number of votes, 170, 171.
attested copy of return, 170.
form of warrants of ward meetings, to conform to act of 1878, 171.
to be served by constables and returned, 172.
form of warrant for general meetings, 172.
to be served by constables and returned, 173.
time of opening and closing the polls to be fixed by whom, 173.
EMBEZZLING, property at fires punishable, 190, 191.
ENDORSEMENTS, of transfer of carriage licenses, 82.
transfer of trucks, &c., licenses, 88.
See City Clerk.

ENGINEER, CITY, council to choose, 130.
duties, 130.
duties as to monuments, 130.
shall supervise sewers, 131.
keep account of expense and list of persons benefited, 131.
make plans of sewers, 132.
mean tide elevation to be a base line, 132.
description of streets, drains, sewers, &c. to be recorded, 132.
ENGINEER OF FIRE DEPARTMENT, 196.
ENGINE COMPANIES. See Fire Department.
ENGINE HOUSES. See Fire Department.
EVERGREEN CEMETERY. See Cemeteries.
EXCAVATIONS, in streets, 502, 468.
EXHIBITIONS, public regulated. See Amusements.
EXPENDITURES. See Contracts and Expenditures, and Finance.
FARE, for carriages. See Carriages.
FARM CITY, teams of city may be kept at, 479.
FALSE REPRESENTATIONS, to liquor agent, 50.
FAST DRIVING in streets, prohibited, 489.
FENCES. See Trees, 537.
FERRIES, county commissioners may license ferries, establish tolls, take bond, 175.
property to be appraised on removal of a ferryman, 175.
commissioners may establish ferries to be supported by towns; penalty for neglect, 175.
penalty for neglect of keeper to keep safe boat, and for neglect of attendance, 175.
person injured by default of ferrymen, may sue bond, 175.
no other ferry on same river within one mile above or below, 175.
penalty for keeping ferry or conveying passengers or property contrary to law, 175.
ice to be leveled and way kept in repair in winter, 176.
penalty for neglect and liability for injury, 176.
licensed ferrymen not to use horse boats or steamboats, 176.
at horse and steam ferries, other boats to be used in times of danger, 176.
obstructions to, prohibited, penalty, 176.
piers may be sunk to guide boats at ferries, 177.
Cape Elizabeth ferry. An act to incorporate, 177.
real estate and personal property, 177.

FERRIES, time of running boats, 178.
forfeiture in case of neglect, 178.
liable for loss or damage, 178.
capital stock, 178.
FILTH, not to be thrown into streets. See Health, 263.
FINANCE, constitutional amendment of 1877, 180.
power of city of Portland to create debt limited to five per cent. of her valuation, 180.
private laws of 1877, 180.
not to apply to fund in trust or to temporary loan for municipal purposes, 180.
jurisdiction of S. J. Court, 180.
city council authorized to purchase real and personal estate, not exceeding $200,000, 181.
school money, how paid, 181.
for what purposes money may be raised by towns, 181.
towns may procure town histories, 181.
build soldiers' monuments, 181.
doings of cities and towns made valid, 181.
contracts made valid, 182.
unauthorized contracts by municipal officers may be made valid, 182.
committee on accounts to be appointed, 182.
city treasurer's duties, 182.
committees on accounts to audit the accounts of city treasurer and auditor, 183.
city treasurer to give bond, 183.
financial year, accounts to be made to, 183.
committee on finance to be appointed, 183.
duties, 183.
city officers to pay over moneys to the treasurer, 183.
registered bonds, 184.
duty of city treasurer, 184.
forms and regulations, 184.
denomination of said bonds, 184.
blanks and books, 185.
transfer, 185.
dispose of same, 185.
bonds for payment of P. & O. assessment, 185.
FINANCIAL YEAR. See Finance, 183.

FIRE, larceny at, 190.
innkeepers to provide means of escape from, 193.
bonfires in street, penalty, 194.
unlawful kindling of, 192, 191.
giving false alarm of, penalty, 195.
removing fire ladders at, penalty, 195.
See Engineers, Fire Department, Gunpowder.
FIRE ARMS, not to be discharged except, &c. 194.
FIRE ALARM. See Fire department, 195.
FIRE DEPARTMENT, powers of, in whom vested, 188.
towns may prescribe rules for care and management of fire engines and apparatus, 188.
for employment of men in, 188.
for appointment of officers, 188.
officers so chosen have powers of fire wards, 188.
powers, privileges and duties of men so employed, 188.
engine men excused from serving as jurors, 189.
duties of engine companies, 189.
discharge of negligent men, and selection of engine men for other duties at fires.
election of fire wards, 189.
notice, penalty for not entering acceptance or refusal, 189.
duty of fire wards and other officers at fires, 189.
power of fire wards at fires, 190,
penalty for refusing to obey, 190.
officers appointed under special laws may demolish buildings, 190.
compensation for building demolished, 190.
recovery by action on the case, 190.
plundering at fires declared larceny, 190.
penalty for occupying tenement for sail maker, rigger or livery stable, except as municipal officers direct, 191.
municipal officers to direct defective chimneys to be removed or repaired, 191.
penalty for lighting or smoking cigar or pipe in mills, &c., 191.
penalty for kindling fire on land without consent of owner, 191.
penalty for kindling fire with intent to injure, 192.
lawful fires to be kindled at suitable time, 192.
municipal officers to make regulations respecting gunpowder, explosive oils, and substances, 192.
persons injured by explosion may recover damages, 192.
power of municipal officers to search for gunpowder, 192.

FIRE DEPARTMENT, regulations not in force until published, 192.
penalties, keeping gunpowder, 193.
inkeepers to provide means of escape from fires, 193.
60 days' notice to so provide, 193.
penalty for neglect, 193.
penalty for unlicensed use of fire works, 193.
burning bricks in town, 193.
water not to be taken from reservoirs, 194.
penalty for interfering with convenient use of reservoir, 194.
bonfires in streets, fine, 194.
penalty for carrying fire in streets, 194.
penalty for discharging fire arms, 194.
penalty for erecting and firing kilns, 195.
penalty for false fire alarms, 195.
penalty for removing ladders, 195.
burning chimneys, flues, &c., 195.
penalty for wearing badge or insignia of fire department, 195.
hydrants used only for extinguishment of fires, 196.
driving over hose, 196.
organization of fire department, 196.
election of engineers, 196.
their rank, 196.
organization of their board, powers, 197.
to cause combustibles to be removed, 197.
to demolish buildings at fire, when, 198.
board may suspend companies and officers, when, 198.
engine company, how composed, 199.
power and duties of chief engineer, 199.
city council may form engine, hook and ladder and hose companies, 200.
foreman and clerk, how chosen, 200.
companies may make rules, 200.
monthly and other meetings of companies, 200.
fines for absence, 201.
pay of members of companies, 201.
fires in adjoining towns, 201.
duties of foremen, 201.
duties of clerks, 201.
election of enginemen, 202.

FIRE DEPARTMENT, duties of enginemen, 203.
board of engineers, rules and regulations, 205, 206, 207, 208, 209.
drivers, duty of, 203.
FIRE WOOD. See Streets, 495.
FIRE WORKS. See Fire department, 193.
FISH. See Health, Wharves, Manure.
FLOUR, appointment of inspectors, 210.
inspection, how made, 210.
inspectors, duties, 211.
record of inspections kept, 211.
penalty for fraudulently marking, 211.
penalty for alteration of marks, 211.
when inspection is not demanded, 211.
FOOD, punishment for selling adulterated, 256.
FOOT BALL, forbidden in streets, 484.
FOOT WALKS. See Sidewalks and Streets.
FOWLING PIECE, not to be discharged in city, 194.
FREE HIGH SCHOOLS. See Schools, 442.
FRUIT, 565. See Weights and Measures, 566.
FUND. See Cemeteries, 98.
Finance, 180.
Railroads, 365.
Taxes, 515.
Trees, 538.
FUNERAL CARS. See Health.
FUNERALS. See Cemeteries.
GAMING TABLES, not to be exposed. See Streets, 484.
GAS, statutes, act of incorporation of Portland gas light company, 212.
capital stock, how applied, 213.
liability for injury to private property, 213.
regulations for laying down pipes, 213.
liability to city for damages, 214.
obstruction to public travel in laying down, erecting or repairing works, 214.
not to obstruct or impair the use of any drain, 214.
city council authorized to contract for lighting the streets and public buildings, 214.
exclusive privileges granted to company, with proviso, 215.
city of Portland authorized to take and hold stock in said company, 215.

GAS, amount received from city by company, its disposal, 216.
its effect upon the remaining shares, 216.
issuance of shares to city, 216.
shares of city, how represented, 216.
authority of city to take the property of said company at its appraised value, 216.
appraisers, how appointed, 216.
if company neglects or refuses to deliver its property to city, 217.
exclusive privileges to said company in case city should not take its property, 217.
liability of company for wilfully or negligently leaving obstructions in any street, 217,
or neglect to repair, 217.
fine, how collected and applied, 217.
liability for personal injury, 218.
mayor and aldermen have power to regulate such works as affect the city's health, 218.
Portland Gas Light Company authorized to increase its capital stock, 218.
shares, how disposed of, 218.
city may take proportional part of them, 219.
shares to be numbered, 219.
how issued and amount, 219.
Portland Gas Light Company authorized to increase its capital stock, 220.
shares first offered to existing share holders, 220.
balance, how disposed of, 220.
city council may make the city joint owner of stock, 220.
ownership, conditions of, 221.
duties of directors and treasurer, 221.
See Streets.
GOODS, sold at auction on streets, 60.
obstructing foot path or sidewalk, 495.
GOVERNOR, election of. See Elections, 160.
GRAND JURORS. See Jurors, 286.
GRATINGS, in streets regulated. See Streets, 488.
GRAVES. See Health, 274, 275.
GRINDING CUTLERY in streets, forbidden. See Streets 486.
GUARDIANSHIP, persons under, exempt from taxation, 512.
GUIDE POSTS, towns must maintain, 476.

GUN, not to be discharged in city, 194.
GUNPOWDER AND EXPLOSIVE SUBSTANCES, municipal officers may make regulations, 222.
persons injured by explosion may recover damages, 223.
power of municipal officers to search for gunpowder, 223.
sale of, without license in city of Portland, unlawful, 223.
license to sell, 223.
in force one year with power of renewal, cost, 223.
mayor and aldermen of Portland may establish rules for sale of gunpowder, 224.
penalties, buildings nuisances, 224.
rules and regulations established by mayor and aldermen, 225.
appointment and duties of keeper of powder magazine, 225.
no licensed vender of gunpowder to keep over 75 lbs., 225.
kept in copper chests placed near the outer door, 225.
vessels not to land or receive over 25 lbs. without permit, 226.
nor lay at any wharf, 226.
permits to land or ship, granted by mayor and aldermen, 226.
transportation of, through city, 226.
persons licensed to sell, to keep sign over door, 227.
penalties, 227.
transporters of gunpowder appointed by mayor and aldermen, 228.
See Fire Department.
HACKNEY CARRIAGES. See Carriages, 81.
HAND CARTS. See Carriages, 87.
HAND SLEDS. See Carriages, 87.
HALL, CITY, proceedings of town of Portland relating to erection of town hall, 133.
use of part of hall to military companies, 133.
mayor to have general chage, 134.
HARBOR OF PORTLAND, boundaries defined, 230, 231.
wharves, extension of, 231, 236.
receiving basins and reservoirs defined, 231.
erections in prohibited, except, &c., 231.
commissioners appointed, 231.
term of office, 232.
their compensation, 233.
Supreme Judicial Court may enjoin, 232.
costs of injunction, by whom paid, 232.
rules for regulation and management of vessels, 181, 238.

HARBOR OF PORTLAND, permissions to make erections within receiving basins and reservoirs of the harbor, shall be in writing and recorded, 231.
prosecution and punishment, 232.
commissioners, powers extended, 232.
restrictions and penalties, 233.
harbor lines on Fore river, 233.
those on northerly side of river, 233.
southerly side, section one, 234.
southerly side, section two, 235.
no wharf or incumbrance of any kind to extend beyond harbor lines, 236.
those built within said lines to have permission of commissioners, 236.
permission recorded, 236.
existing remedies extended, 236.
Atlantic & St. Lawrence wharves east of Galt's wharf to be permitted to go beyond commissioners' line, 237.
stones, &c., not to be thrown into harbor, 237.
penalty for violation of rules, 239.
vessels anchored contrary to rules, 239.
to be removed at owners' expense, 239.
penalties, 239.
HARBOR MASTER, to be elected, 237.
to be sworn, 237.
compensation, 237.
duties, 337.
HARD COAL. See Weigher.
HAWKERS AND PEDLERS, penalty for selling goods without license, 240.
articles forfeited, 240.
county commissioners may license, 241.
license free to disabled soldiers, 241.
amount to be paid for license, 241.
carriage to be lettered, 242.
license to be exhibited, 241.
penalty for refusal, 241.
provisions do not apply to goods forwarded from without the State upon the order of a purchaser, 240.
nor to citizens of State selling articles raised or manufactured in State, 240.

HAWKERS AND PEDLERS, county commissioners to furnish blank licenses to clerk of courts, 241.
penalties and forfeitures, how recoverable, and to whose use accruing, 242.
commitment in case of default, 242.
HAY, pressed, how marked for sale, 243.
forfeited unless so marked, 244.
penalty for receiving on board vessel, 243.
weighers to be chosen by city council, 244.
not to be sold without being weighed, 244.
penalty, 245.
weighing without authority, 244.
fees for weighing, 245.
pressed and in bundles need not be weighed, 245.
weighers forbidden to deal in hay, 243.
HEALTH.
INFECTIOUS DISEASES.
precaution against infected persons, 249.
may be removed to separate house, 250.
may be restrained from traveling in State, 250.
penalty, 250.
hospitals may be established, 254.
any building may be licensed as such, 254.
restrictions as to inoculating, 255.
process for securing infected articles, 255.
physicians liable to hospital regulations, 255.
masters of vessels, 254.
vessels with infected persons, 254.
quarantine, 254.
precautions to prevent the spread of infectious diseases, 255.
penalties for violation of hospital regulations, 255.
householders, &c., to give notice of persons sick with infectious diseases, 255.
penalty for selling unwholesome provisions and drinks, 256.
penalty for adulterating food or liquors, 257.
contagious diseases among cattle, 257.
execution of laws, &c., relative to, to be under superintendence of city marshal, 262.
to be subject to control of mayor and aldermen, 262.
city and consulting physicians, 262.

HEALTH, their duty, 263.
filth shall not be thrown into streets or waters of harbor or Back Cove, penalty, 263.
shall be removed at expense of owner or occupants of house, 264.
filth, &c., may be removed by order of mayor, &c., 264.
in case of neglect to remove after notice given, 264.
to be removed at expense of person notified, 265.
penalty for selling veal of a calf less than four weeks old, 256.
masters of vessels may be examined on oath in certain cases, 253.
selectmen may establish quarantine regulations, 255.
penalty for breach thereof, 253.
duty of pilots, 253.
fresh meat and fish, cities have power to regulate sale of, 257.
penalties, 257.
cattle infected by contagious disease, 257.
cattle killed to be appraised, 258.
regulation of passage of animals, 258.
appraisals how made, &c., 260.
owners dissatisfied may maintain action, 260.
notice to governor and secretary of board of agriculture, of existence of disease, 260.
to commissioners if any provided, 260.
commissioners may be appointed, 260.
their powers, 260.
neglect of officers to enforce and carry into effect the commissioners' regulations, fine, 260.
said regulations to superscede all others, 260.
having bodies unlawfully in possession, 260.
consent to use body for anatomical science given by person before his death, 261.
body for medical school, 261.
board of, 256.
officer, how chosen, 262.
may remove filth, &c., 263.
expenses to be paid by owners of infected articles, 265.
building of privy vaults, 265.
regulations respecting hog-sties, 267.
house offal, 267, 268.
hides or leather not to be exposed in streets, 269.
cart for cleaning vaults, permit time, 270.

HEALTH, interment of the dead, department in relation thereto to be placed under control of one superintendent, 271.
subject to regulations of mayor and aldermen, 271.
superintendent to be sworn, his term, office, &c., 271.
funeral cars placed in his care, 272.
undertaker appointed and licensed by mayor and aldermen, 273.
no interments to be made without license from superintendent of burials, 273.
undertakers, fees, 273.
depth of graves, 274.
no body removed from city without permission of superintendent, 274.
superintendent shall attend such removal, 274.
undertakers to make returns to superintendent, 274.
bodies not to be removed without permit of superintendent, 274.
removal of bodies from city tomb, 274.
bodies not to be interred in city cemeteries, 275.
mayor and aldermen to make regulations, 275.
transportation of dead bodies, 275.
penalties, 276.
HIDES AND LEATHER. See Leather, 293, 294.
HIGHWAYS, buildings on. See Buildings and Streets.
HISTORIES OF CITIES, 276.
HOGSHEADS. See Lumber, 299.
HOG-STY. See Health, 267.
HOLMES NOTE. See City Clerk, 122.
HOOK AND LADDER COMPANIES. See Fire Department, 200.
HOOPS AND STAVES. See Lumber, 298.
HORNS, not to be sounded in streets. See Streets, 486.
HORSE-BOATS. See Ferries, 176.
HORSES. See Streets, 489.
See Trees, 538.
HOSE COMPANIES. See Fire Department, 200.
HOSPITALS. See Health.
HOUSE OF CORRECTION, towns may build and maintain, 278.
overseers of, to be appointed, 278.
their powers and duties, 278.
compensation to overseers and master, 279.
power of overseers to commit persons, 279.
HOUSE OFFAL. See Health, 267.

HOUSES. See Buildings.
ICE. See Streets, 496, 497.
INCUMBRANCES. See Harbor, 231. See Streets.
INDIANS, liquor agent not to sell to, 49.
polls of, exempt from taxation, 512.
INDUSTRIAL SCHOOL, under what conditions girls may be sent to, 280.
INFECTIOUS DISEASES. See Health.
INN HOLDERS AND VICTUALERS, license to, when and by whom granted, 281.
persons licensed to give bond, 282.
licenses may be granted for a part of the year, 282.
fee for licenses and record, 282.
duty of innholders to provide entertainment, 282.
duty of victualers, 283.
innholders and victualers to keep up signs, 283.
not to allow gaming on the premises, penalty, 283.
reveling, disorderly conduct, drunkenness prohibited, 283.
no person shall be a common innholder or victualer without a license, penalty, 283.
duty of licensing board to prosecute, 283.
fire escapes and ladders, 283.
liability for baggage, 283.
loss by fire, by negligence of guest, 284.
See Schools, 442.
See Fire Department.
INSPECTORS. See Boats, 61. See Flour, 210. See Leather, 293.
INTELLIGENCE OFFICES, not to be kept without license, 284.
licenses, how granted and revoked, 284.
fee for license, 284.
municipal officers may license, penalty, 285.
penalties, how recovered, 285.
INTERMENT OF THE DEAD. See Cemetery, Health.
IRON, not to be placed on sidewalk. See Streets, 495.
ISLANDS. See Elections, 170.
JURORS, board for preparing lists of, 286.
lists how prepared, 287.
persons exempted from serving, 287, 189.
tickets of names to be kept in jury box, 287.
liable to be drawn once in three years, 287.
number required to be kept in the jury box, 287.

JURORS, names may be withdrawn, 287, 288.
commissioners to divide county into jury districts, 288.
rule by which clerk shall issue venires, 288.
grand jurors to serve one year, 288.
jurors to attend first day of term, 288.
duties of sheriffs in relation to distribution of venires, 288.
constables shall notify, &c., 288, 289.
notice, how given, 289.
mode of drawing jurors, 289.
penalties for neglect, 290.
penalty for fraud by town officers, 290.
date of draft to be indorsed on the ticket, 289.
penalty for neglect of juror to attend, 290.
who selected for jurors, 125.
JURY BOX, city clerk to keep, 125.
JUSTICE OF THE PEACE. See Municipal Court, 314.
KILNS. See Fire Department, 193.
LAMPS AND LAMP POSTS, injuries to, penalty to, 291.
committee on, to be appointed, 291.
to cause lamps to be set up, 291.
mayor, &c., to make contracts and rules for, 291.
no person without authority shall light or extinguish lamp, 292.
how lamp posts may be legally located, record, 292.
LANDEAU. See Carriages.
LANES, the word street to include, 497.
LANTERN, not to project into streets, &c., 486.
LARCENY, embezzling of property at fires declared to be. See Fire Department, 191.
LEATHER, boots, &c., may be stamped, 293.
penalty for fraudulently stamping, 293.
inspectors of sole leather to be appointed, 293.
to examine and inspect sole leather, 293.
penalty for counterfeiting marks, 294.
mode of inspecting and stamping, 292, 294.
assessors to be furnished with account of hides and leather on hand, for taxation, 294.
hides or leather not to be exposed in streets, 294.
LIBRARIES, public may be established, 295.
towns may raise moneys therefor, 295.
donations to, 295.
penalty for defacing books or pictures, 295.

LICENSING BOARD, to consist of municipal officers, treasurer and clerk, 281.
to meet on the first Monday of May, 281.
to grant licenses to victualers and innholders, 281.
LICENSES. See Amusements, Auctions.
dogs, 143.
pawnbrokers, 336.
gunpowder, 223.
carriages, 81, 87.
innholders and victualers, 281, 283.
intelligence offices, 285.
carriages, 88.
hawkers and pedlers, 241.
LIEN on building and lot, 123.
sales of personal property to enforce, 123.
on standing wood and timber for payment of taxes, 513.
LIGHTS. See Streets.
LIGHTERS, provisions respecting, 61.
LIME KILNS, not to be erected or fired, 195.
LIQUOR, agents for sale of, 47.
LISTS. See voting lists and check lists.
See elections, 159.
See Taxes, 531.
LOAN, of credit of city to the Atlantic & St. Lawrence Railroad Company. See Railroads.
LOGS, duty of surveyors of. See Lumber, 300.
LOTS. See Cemeteries, 100, 108.
LUMBER, towns to elect surveyors of, 296.
to be surveyed before delivery, 297.
dimensions and quality of shingles, 297.
how split, or sawed and packed, forfeiture, 297.
dimensions and quality of clapboards, 298.
dimensions and quality of staves and how enumerated, 298, 299.
hogshead hoops, how packed, penalties, 299.
LUNATICS, municipal officers to decide on cases and commit to hospital with certificate, keep record, &c. 301.
two physicians required to establish insanity, non compos not, 301.
may certify inability to pay for support and treasurer may charge State one dollar per week, 302.
towns where insane person resided or was found, pay for support unless, 302.

LUNATICS, when unlawfully committed, and expense of removal, 302.
towns have remedy against the person, or those liable for his support as a pauper, 302.
discharge of, those liable for support may apply for, 303.
municipal officers to decide, 303.
overseers of poor to remove when notified so to do, 303.
how persons discharged shall be removed, 303.
town liable upon notice for costs of removal, 303.
towns of less than two hundred inhabitants not liable for removal, 304.
judge of probate may appoint guardians for persons sent to hospital, duties and compensation, 304.
MANUFACTURING ESTABLISHMENTS, exempt from taxation, not exceeding ten years, provided, &c. 305.
capital, 305.
children under 15 years not to be employed in, without proof of schooling three or four months in the year, 305.
teacher's certificate, 306.
penalty, 306.
no person under 16 years of age to be employed over ten hours a day in, 306.
their exemption from taxation in certain cases, 512.
MANURE, not to be taken from street without permit. See Streets.
commercial, to be labeled with name of manufacturer and amount of certain constituents, 307.
purchaser may recover from seller if constituents are not as stated in label, 307.
term soluble defined, 307.
these provisions do not apply to manures prepared from fish, 308.
MARRIAGE, registration of intentions of, 118.
false certificate of intentions of, 119.
annual return of marriages, 119.
record of. See Clerk City, 119.
MARSHAL, CITY, See Police, 346, 347, 348.
See Carriages, 82, 88.
See Cows, 140.
See Dogs, 143.
See Health, 262, 264.
See Streets, 480, 483, 485, 488, 495, 496.
See Trees, 538.

MARSHAL, DEPUTY. See Police.
MASTERS OF VESSELS. See Harbor of Portland, and Health.
MAYOR. See Charter.
MAYOR AND ALDERMEN. See Charter.
MEASURERS OF WOOD AND BARK. See Wood.
MILITARY COMPANIES. See City Hall, 134.
MILK, inspectors of, shall be appointed in towns of not less than 3000 inhabitants, duties, 309.
vessels to be annually sealed, 310.
penalty for selling or offering injurious milk, 310.
milk inspector, powers of, 311, 310.
compensation, 311.
duties of milk vendors, penalty, 310.
MILLS, lighting or smoking cigar or pipe in, 191.
MINORS, liquor agent not to sell to, 49.
must be specially licensed to drive hackney carriage, 86.
may be bound out. See Paupers, 331.
MONUMENTS. See Finance, 181.
Cemeteries, 101.
Engineer, 130.
Streets, 479, 500.
MORTGAGE BONDS. See Railroads, 380.
MORTGAGOR, when out of State, 122.
MORTGAGES, personal property to be recorded, 120.
when recorded, 120.
how redeemed, 121.
foreclosure of same, 121.
Holmes note. See City Clerk, 122.
MUNICIPAL OFFICERS. See Officers.
NATURALIZATION, selectmen's duties respecting papers of. See Elections, 157,
NOTICE. See Drains and Sewers, 146.
Buildings, 76.
Elections, 158.
Railroads, 376.
Taxes, 525.
NUISANCES, dangerous buildings may be adjudged, proceedings, 317.
powers of municipal officers, 318.
may abate nuisance, 318.
owner to pay expenses, 318.

NUISANCES, enforcement of payment, 318.
owner aggrieved may apply to Supreme Judicial Court or justice of for jury, 318.
jury, how empanneled, 318.
verdict, what it may be, 318.
may be accepted or rejected, 318.
exceptions taken, proceedings, 318.
costs, how paid, 319.
provisions not applicable unless by vote, 319.
advertising on fences, rocks, &c., without permission, 319.
penalty, 319.
certain nuisances described, 319.
places to be assigned for unwholsome employments, 320.
buildings for manufacture of gunpowder, when, 320.
burning bricks in parts of a town prohibited by vote, 320.
stationary steam engine not to be used without license, 321.
duty of town officers on application for license, 321.
such engine erected without license to be deemed a nuisance, 321.
duty of town officers on application for, 321.
power of town officers to remove such engine, 321.
steam engines and the proper use thereof, 321.
penalty, 321.
whistles on locomotives, 322.
OFFAL. See Health, 267, 268.
OFFICERS, MUNICIPAL, duties as to liquor agent. See Agent.
duties as to public halls or buildings, 55, 56, 57.
duties as to auctioneers. See Auctioneers, 58.
duties as to cemeteries. See Cemeteries, 92.
duties as to children abused, 110.
duties as to finance. See Finances, 182.
power of, to search for gunpowder, 192.
election of, recorded. See City Clerk, 125, 126.
See Elections. 165.
See Finance, 182.
See City Clerk, 126.
See Schools, 440.
See pawn brokers, 337.
See petroleum, 341.
what term is construed to imply. See City Council, 129.
treasurer. See City Clerk, 126.

OMNIBUSES. See Carriages, 86, 87.
ORDINANCES AND BY-LAWS, towns and cities may make, 323.
for managing prudential affairs, 323.
establishing police regulations, 322.
respecting infectious diseases, 323.
going at large of dogs, &c., 323.
measure and sale of wood, bark and coal, 324.
sidewalks, &c., 324.
omnibuses, stages and fares, 324.
protection against injury from falling ice and snow, 324.
by laws published, 324,
regulating sale fresh meat and fish, 324.
location of trees and hydrants, 325.
enacting style of city ordinances, 325.
ordinances to be published, 325.
time of ordinance taking effect, 325.
construction of ordinances, rules applicable, 325.
fines to enure to use of city, except, 326.
OVERSEERS OF POOR, to be chosen, 328.
to have charge of, 330.
may bind out poor children, 331, 332.
to relieve poor of other towns, 333.
may remove persons chargeable to places of residence, 333, 334.
to receive and provide for such persons, 333, 334.
may send notifications, 333, 334.
to relieve paupers not belonging in the State, 335.
may remove such paupers out of State, 335.
to take charge of effects of after death of pauper, 336.
may prosecute and defend suits, 336.
may complain of persons intemperate, 335.
See Paupers. Work House.
PAGEANTRY. See Amusements.
PAPERS, PERSONS AND, may be brought before Mayor, 42, 43.
PARENTS to give notice of births and deaths to City Clerk, 120.
of abused children may apply to have custody restored, 112.
application by to have custody of children restored. See Children, 112.
liable if minors injure schools, 442.
PAUPERS, city to support, 328, 330.
settlements of how acquired, 328, 329, 330.
settlements remain till new ones acquired, 330.

PAUPERS, settlements when not affected by revision of laws, 330.
settlements when in a town, duty of town and of the overseers, 330.
kindred of, liable, 330.
kindred may be assessed, how, 330, 331.
minor children of, to be bound out, 331.
treatment of such children to be inquired into, 331.
damages for ill treatment of such children, 331.
when such child may sue master, and how, 332.
such child running away to be arrested, 332.
such child may be discharged on complaint of master, 332.
adults may be bound out for a year, when, 332.
adults may complain to court when, 333.
destitute from other towns to be relieved, 333.
destitute, when may be put in jail, so far as needful, for support, 333.
notice to town liable for relief, 333, 335.
answer to same, 334.
removed and returning, when to be sent to house of correction, 335.
foreign, may be removed out of state, 335.
towns liable to individuals for private support, when, 335.
intemperate, to be complained of, 335.
liable to towns for support, 336.
property of to be taken after decease by overseers, 336.
suits to be prosecuted by overseers, 336.
penalty for bringing into a town where he has no settlement, 336.
common carriers, liability for bringing non-resident pauper into the State, 336.
soldier not to be made pauper, 336.
not to have certificate of intention of marriage issued to, 118.
See Railroads, 414.
PAWN BROKERS, licenses may be granted to, 337.
to keep account of business done, 337.
to furnish memorandum of articles pawned, 337.
books to be submitted to inspection, 337.
penalty, 337.
interest on loans, not to exceed certain rates, 337.
pawns, &c., when to be sold, 338.
certain sales void, 338.
surplus proceeds of sales how disposed, 338.
PEDLERS. See Hawkers and Pedlers.

PERAMBULATIONS of boundary lines, 64.
laws respecting, 64.
PERMITS, fee for, ordinance, 339.
PENALTIES, FINES AND FORFEITURES, by whom received, 182.
for not summoning voters. See Constable, 166.
permitting cows to go at large. See Cows, 140.
crying libellous matters, 141.
not confining mischievous dogs, 142, 144.
neglecting to deposit and post lists, keep check lists, reject illegal votes, 166.
striking names from voting lists, 166.
voting in name of another, 167.
making false certificate, 167.
neglecting to deliver returns, 167.
parading on election day, 168.
bribery and corruption of voters, 168.
betting on elections, 169.
packing shingles not of prescribed dimensions, 297.
packing hogshead hoops, 299.
employment of children under certain age, 305.
selling injurious milk, 310.
disturbing schools, 441.
injuring wells and pumps, 571.
selling wood, bark and charcoal unsurveyed, 575.
selling charcoal from unsealed baskets, 576.
obstruction of streets by Portland Water Company, 551.
corruption of water or injury to property by said company, 551.
adulterating vinegar, 540.
malicious injury to trees, 537.
permitting horses, &c., to mutilate trees, 538.
removing ornamental trees, 538.
refusal by cashier of bank to exhibit books, 521.
refusal by tax collector to deliver up bills of assessment, 528.
See Agent for Sale of Liquors, 50, 51.
Assessments, 53.
Bowling Allys, 53.
Cemeteries, 92, 109.

PENALTIES, FINES AND FORFEITURES, Clerk City, 118, 125.
See Elections, 164, 165, 166, 167.
Ferries, 175.
Fire Department, 191, 190, 192, 194, 195, 196.
Flour, 211.
Gas, 217.
Gunpowder, 227,
Harbor of Portland, 223, 239.
Hawkers and Pedlers, 242.
Hay, 243.
Health, 260, 269, 268, 265, 263, 275, 276.
Innholders, 283.
Intelligence Office, 285.
Jurors, 289, 290.
Schools, 431, 442.
Steam, 457.
Streets, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 491, 492, 494, 495, 496, 497.
Tramps, 534.
Weights and Measures, 565.
Wells and Pumps, 521, 575, 576.

PERSONAL ESTATE, what it includes, 511.

PERSONS AND PAPERS, mayor and aldermen may send for, 42, 43.

PETROLEUM, inspection of, 340.
inspectors of, 340.
inspectors shall mark casks, 340.
inspectors, compensation of, 341.
penalty for false marks, 350.
all casks to be inspected, 340.
penalty for neglect, 341.

PEWS. See Clerk, 124.

PIPES of Water Company and Gas Company. See Streets.

PHYSICIANS, city and consulting, to be chosen, 262.

PILOTS, appointment of, 342.
oath and bonds, 342.
authority and liabilities, 342.
suspension and removal of, 342.
board of trade of Portland to appoint, 342.

PILOTS, liable for damages, 343.
governor and council to fix fees, 343.
master may pilot his own vessel, 343.

PLACES. See Streets.

PLANK. See Lumber.

POLICE, administration of, vested in mayor and aldermen, 345.
cities may establish police regulations, 345.
powers of, 345.
how constituted, 345.
may require aid, 346.
penalty of refusing aid to, 346.
of Portland appointed by mayor, 346.
marshal, how appointed, 347.
shall give bonds, 346.
duties of marshal, 346.
to enforce city ordinances, 347.
to prosecute offenders, 347.
to make statement of prosecutions, 347.
to render annual account of moneys received, 347.
to pay over moneys to city treasurer, 347.
to comply with rules and regulations, 347.
deputy marshal, how appointed, 348.
to act as captains of city watch, 348.
compensation of, 348.
duties of, 348.
in case of sickness, mayor to appoint, 349.
policemen how appointed, 349.
compensation and duties, 349.
watchmen how appointed, 349.
duties, 349.
policemen and watchmen must perform extra service, 349.
compensation for, 350.
penalty for resistance to, 351.
uniform of police, 351.
duties as to petroleum, 341.

POLLS, time of opening and closing, 173.

POLL TAX, on whom assessed, 510.
Indians and persons under guardianship exempt from, 512.

POOR, children may be bound out, 331.
See Paupers.
PORTLAND AND FOREST AVENUE RAILROAD. See Railroads, 398.
PORCHES AND PORTICOES, not to project into street, 487.
PORTLAND GAS LIGHT COMPANY. See Gas.
POWDER. See Gunpowder.
magazine. See Gunpowder.
PRESIDENT OF COMMON COUNCIL. See Common Council.
PRIVATE WAYS. See Streets.
PRIVIES. See Health, 265, 268, 269, 270.
PROPERTY, embezzeling at fires, larceny, 190.
PROPRIETOR, records of, how preserved, 124.
PROVISIONS AND DRINKS, unwholesome, 256.
PUBLIC BUILDINGS, committee on to be appointed, 352.
to have care, &c. of buildings belonging to city, 352.
proviso, 352.
to lease buildings, 353.
plan of buildings to be erected or repaired, to be prepared by, 353.
to publish notice, 353.
proposals of work to be sealed, 353.
how and when opened, 353.
not to be disclosed till contract is made, 353.
proviso, 353.
contracts exceeding five hundred dollars to be in writing, 354.
contracts to be signed by mayor, 354.
not to be altered unless, &c., 354.
expenditures not to exceed appropriations, 354.
purchases of land to be under direction of committee, 354.
no building to be sold without order of city council, 354.
repairs to be done under committee, 354.
lease from Cumberland county to city of Portland, of city building, 354.
PUBLIC PARKS AND SQUARES, when municipal officers may take land for, 359.
duty of municipal officers before taking, 359.
appeal from estimate of damages, 360.
removing gravel from public grounds, 361.

PUBLIC PLACES, the word streets to include, 497.

PUBLIC SQUARES. See Streets, 497.

PUNISHMENTS. See Elections, 167, 168.
See Health, 254.
See Agent for Sale of Liquors, 50.
See Schools, 443, 445.
See Tramps, 535.

QUARANTINE. See Health, 253, 254.

RAILROAD CORPORATIONS. See Streets, 490, 491.

RAILROAD ENGINES. See Nuisances, 322.
See Streets, 490.

RAILROADS, Atlantic and St. Lawrence R. R. Co. aid to, act of 1848. Portland to loan its credit, 363.
act to be accepted by directors of company and by inhabitants of city, 363.
city treasurer authorized to make and issue scrip; in what quantities scrip may be delivered, 364.
whole amonnt not to exceed $1,000,000, 364.
prerequisites, 364.
proceeds of sale of scrip, 364.
bond to be given treasurer on delivery of scrip, 364.
collateral, 365.
lien created on railroad, 365.
sinking fund and its commissioners, 365.
bond of commissioners, 365.
their compensation, 365.
how the fund shall be coustituted, 366.
duty of commissioners, 366.
treasurer of fund, 366.
moneys belonging to fund, investment, 366.
fund to be reserved for redemption of scrip, 367.
when shares held as collateral may be sold, 367.
if directors fail to pay into sinking fund, per centage on increase of road, 367.
commissioners to sell collateral shares, 367.
conveyances and transfers, 368.
record to be kept by commissioners, 368.

RAILROADS, annual report, 368.
power of Supreme Judicial Court on complaint against commissioners, 368.
if fund exceed amount of unredeemed scrip, 368.
when act to take effect, 369.
act of 1850, city authorized to make a further loan to same railroad, 369.
when act to take effect, 369.
scrip to be issued, 369.
amount, 370.
date and how applied, 370.
bond of company for, 370.
security to be given if required, 370.
city not a stockholder, 370.
additional lien, 371.
sinking fund, 371.
how raised, 371.
reserved for specific purpose, 371.
shares in stock exchanged for scrip, 373.
commissioners to sell stock in certain cases, 373.
record, how kept, 373.
complaint, matters of, how adjusted, 374.
excess of sinking fund how applied, 374.
lien to be secured by mortgage, 374.
mortgage, how executed, &c. 375.
neglect of duty by directors, 375.
foreclosure of mortgage, 375.
city to take possession of the road in case the company omit to pay the interest, 376.
notice how served, 376.
all money accruing to the road after notice given, to belong to the city, 377.
penalty for misapplication of such money, 377.
writ of injunction to be issued, 378.
in case of neglect by company, city to appoint directors, 378.
act when to take effect, 378.
act of 1852, further loan by city of Portland, to same railroad, 379.
act not to take effect unless accepted by company and city of Portland, 379.

RAILROADS, return of votes, how made, 379.
city scrip, how issued and amount, 379.
return of votes, how made, 379.
city scrip, how issued and amount, 379.
application of scrip, 379.
scrip secured by penal bond, 379.
mortgage bonds equal in amount to scrip to be issued and secured by deed of trust and mortgage of road, 380.
interest warrants cancelled on payment of interest, 380.
trustees authorized on non-payment of scrip to convey title to city of Portland, 380.
city to hold the property conveyed as security, 381.
act of 1853, further loan by city to same railroad, 381.
when this act shall take effect, 381.
returns of ward meetings held in accordance with said act, how made, 381.
issuance of scrip upon acceptance of act, 381.
amount of scrip under this act limited to $350,000, 382.
proceeds, how applied, 382.
payment, secured by mortgage of road, 382.
how recorded, 382.
failure to perform its conditions, 382.
act when to take effect, 382.
act of 1868, further loan under, 383.
city council may arrange for an extension of the company's obligations, 383.
said council invested with additional powers, 383.
commission of sinking fund to receive contributions for a further sinking fund, 383.
their powers, duties and succession, 383.
investments of funds, how made, 383.
upon mortgages of real estate, interest, 384.
contributions to sinking fund, when and how made, 384.
duties and liabilities of city treasurer in respect to such fund, 384.
city council may, upon petition provide for sinking fund in England, 384.
commissioners for latter fund, by whom appointed, 384.
payments and contributions to same, when made, 384.
its commissioners to be subject to regulations made by city council, 385.

RAILROADS, responsibility of railroad company regarding safe keeping and application of funds, 385.
lien of city not impaired, 385.
act, when accepted, 385.
act of 1872 authorizing a loan by the city in aid of construction of P. & O. Railroad, 385.
duties of city treasurer upon acceptance of act, 386.
penal bond from company to city, 386.
mortgage bonds of company also delivered to city, 386.
if any portion of scrip is unredeemed and outstanding at maturity of bonds, franchise of company may be assigned to the city, 387.
sinking fund and commissioners, 388.
investments by commissioners, 389.
shares of company held by the city as collateral, 389.
record kept by commissioners, 390.
power of Supreme Judicial Court upon complaint of mayor and aldermen or of directors of company against commissioners, 390.
in case sinking fund should exceed scrip unredeemed, 390.
bonds of city, when issued and in what amounts, 391.
when foregoing act to take effect, 391,
Portland and Forest Avenue Railroad Company, its charter, 391.
location, how determined, 392.
shall make no erections within tide waters, of Back Cove, without &c., 392.
term of original location, 393.
renewal of terms, 393.
if at expiration of terms use of streets &c. is granted any other corporation, 393.
said corporation shall purchase &c., 393.
connection of similar corporation, 393.
compensation how determined, 394.
municipal officers of Portland and of Westbrook shall have power, &c., 394.
corporation to keep streets in repair, 394.
penalty and punishment for obstructing its roads, capital stock, amount and how divided, 395.
corporation may hold real and personal estate, 395.

RAILROADS, its railroad constructed under direction of city and town officers, its grades and crossings, 395.
corporation authorized to issue bonds, 395.
approval of said bonds, 396.
how they are secured, 396.
sinking fund and its trustees, 396.
certain legislative acts made applicable to bonds, 396.
when act approved, 397.
act additional to the foregoing, railroad extended, 397.
capital stock increased, 397.
use of dummy engines authorized, 397.
corporate name changed, 397.

GENERAL RAILROAD ENACTMENTS.
city authorized to sell interest in or reorganize P. & O. Railroad or P. & R. Railroad, 397.
any stockholder in any railroad may call for a stock vote at any meeting of &c., 398.
towns may aid in constructing railroads, 398.
may erect gates at railway crossings, 398.
taxation of railroad buildings, 399.
annual excise tax, 399.
how ascertained, 399.
governor and council to determine amount of such tax, 400.
when payable, 400.
applications and proceedings for abatement, 400.
duty of railroad commissioners, 401.
inconsistent acts repealed, 401.
railroad company may construct side tracks to mills, &c., 401.
railroad crossing railroad or canal, 402.
repair of bridges and abutments, 402.
paupers brought into State by, 402.
when city or town is entitled to director in, 403.
location of tracks, of Portland and Forest Avenue Railroad, 404.
routes of road, 404.
turn outs, 405.
tracks to be laid in or near centre of streets grades and curves, 405.
construction of tracks, 405.
company must pave between their tracks, remove snow and ice, &c., 406.

General Railroad Enactments.
rules and regulations, 407.
additional location, 409.
A. & St. L. R. R. Co., agreement of October 31, 1868, 410.
REAL ESTATE, pews deemed to be, 124.
REBUILDING BURNED DISTRICT, bonds to aid in, 416.
four commissioners to negotiate loan, how appointed, 416.
compensation and duties, 416.
may loan on mortgage of real estate the proceeds of bonds, 417.
sinking fund, 417.
moneys to be invested in securities, 417.
vacancies, how filled, 417.
REBUILDING BURNED DISTRICT, removals, how made, 417.
supreme judicial court empowered to adjudicate upon complaints against commissioners, 417.
city treasurer to have custody of moneys, his duties &c. 418.
accounts, records and reports, 418.
acceptance of act, 418.
bonds may be cancelled, 418.
order relating to bonds, 419.
RECORD, of sales by liquor agent, 50.
of doings of board of aldermen, see city clerk, 126.
of conventions of city council, 126.
intentions of marriage, 118.
of births and deaths, 119.
of mortgages of personal property, 121.
of Holmes' note, 122.
lien on building and lot, 122.
of attachment of vessels on stocks, 123.
of sales of personal property to enforce lien, 123.
proprietors records, how preserved, 124.
city clerk may make record of his own election, 125.
of lots sold. See Cemeteries, 107.
of licenses granted, 282.
of sinking fund, commissioners. See Railroads, 373.
of orders given under provisions in regard to trees. See trees, 539.
RECORDER. See Municipal Court, 314.
RECORDS of deaths and marriages. See City Clerk.

REGISTER. See Schools, 440.

REMEDIES. See Taxes, 517.

REPRESENTATIVES TO LEGISLATURE, method of voting for. See Elections, 164.

RESERVOIRS. See Fire Department, 194.

RESIDENCE. See Elections, 156.

RETURNS. See Elections, 163, *et seq.*

RIDING upon outside of carriages. See Carriages, 91.

RIOTS, if three or more persons, &c., 420.
- one person may be convicted without the others, 421.
- duty of magistrates and officers to disperse unlawful assembly, 421.
- when rioters refuse to disperse, 421.
- if any person is killed or wounded, officers held guiltless, 422.
- punishment for pulling down houses or premeditated personal injuries, 422.
- liability of town for injury by mobs, 422.
- in case of riot, marshal and officers to repair to place of riot, 423.
- to use ower and authority to disperse mob, 423.

ROCKETS. See Fire Department, 193.

ROOFS, water from, ordinance, 153.

RULES AND ORDERS, 598 to 596.

SALE, of second hand articles, junk, &c., 424.
- mayor and aldermen authorized to grant licenses to persons for certain purposes, 424.
- to designate place of business, &c., 424.
- persons not licensed, liable, 424.
- penalty, how recovered, 424.
- cities may establish ordinances regulating, 425.

SAWING, wood upon sidewalks. See Streets, 495.

SCALES. See Weights and measures, hay, weigher of hard coal, weigher of plaster.

SCHOOL AGENTS. See Schools.

SCHOOL COMMITTEE. See Schools.

SCHOOL FUND. See Schools.

SCHOOL INSTRUCTORS. See Schools.

SCHOOL RETURNS. See Schools.

SCHOOLS, towns may determine number and limits of school districts, 428.
school in a district may be suspended, 428.
how part of money may be expended, 428.
towns may choose agents, 428.
vacancies, how filled, 428.
school money may be paid only on written order of town officers on vouchers, 428.
this provision does not apply to Portland, 429.
school money in Portland how paid, 429.
towns may abolish school districts, 429.
property, appraisal of, 429.
tax, how levied, 429,
remitted to district, 429.
powers and liabilities of districts to continue for certain purposes, 429.
duties of districts, 429.
districts to raise for school purposes not less than 80 cents per inhabitant, 429.
towns neglected not entitled to State school fund, 430.
towns may provide school books, 430.
apportionment of school money among the smaller districts in the several towns, 430.
towns to choose committee or supervisor, 430.
superintending school committee may appoint one of their number to perform certain duties, 431.
penalty for town failing to choose committee or supervisor, 431.
children required to attend public school twelve weeks in a year, 431.
exception, 431.
penalty for non-compliance, 431.
penalty to boy refusing to attend, 431.
duty of committee to enforce, 432.
mill tax for support of schools, 432.
how assessed and collected, 432.
distribution, 432.
any portion unexpended to be added to permanent school fund, 432.
cities and towns authorized to make laws concerning truants, 432.
persons appointed to make complaint, 432.
truants placed in suitable institutions, 433.
school committee of Portland how constituted, act of 1881, 433.

SCHOOLS, mayor to be chairman, 433.
not restricted as to wards, 433.
vacancy, how filled, 433.
powers and duties of said committee, 434.
election of superintendent, 434.
estimates to be furnished city council, 434.
no member to receive compensation, 434.
powers not conferred upon committee vested in city council, 434.
inconsistent acts repealed, 434.
school committee to be sworn, 434.
school committee when first chosen shall arrange term of office, vacancies, 434.
duties of school committees, 435.
school week and month, 435.
examine candidates for instructors, 435.
give certificates to teachers, 436.
examine schools, 436.
may dismiss teachers for sufficient cause, 436.
give certificate in such cases, 436.
may expel disorderly scholars, 437.
may expel scholars not vaccinated, 437.
direct expenditures, 437.
prescribe sums to be paid in certain cases, 437.
may classify scholars, 437.
to make annual report, 437.
as amended, 437.
shall make annual statement, 437.
school district agents authorized to employ teachers, 439.
to notify school committee when school is to commence, 439.
to return lists of persons from 4 to 21 years of age, 439.
if he neglects, 439.
committee to furnish books if parents or guardians neglect, 439.
compensation for superintending school committee and supervisors, 440.
assessors or municipal officers to make sworn statement to state superintendent, 440.
duties of instructors to keep school register, 440.
inculcate morality, justice and patriotism, 441.
penalty for disturbing schools, 441.

SCHOOLS, minor injuring schoolhouse, parents liable, 442.
penalty for defacing schools, 442.
innholders and shopkeepers not to give credit to students, 442.
general provisions relating to schools, 442.
acts relating to free high schools, 442.
in relation to school exercises and examinations, 442.
exercises and examinations, 442.
school committee to elect and remove instructors, 443.
to determine their salaries, 443.
to apportion salaries of instructors, 443.
children must be vaccinated before attending, 443.
required to attend, 443.
punishment for not attending, 443.
truant officer to be appointed, 444.
places of punishment, 445.
habitual truants, 445.
punishment of children between the ages of 8 and 16, 445.
buildings, superintendent of, 445.
his duties, 446.
non-resident children, 446.

SEAL OF THE CITY, its motto, 448.
effect upon contract, 448.

SEALER OF WEIGHTS AND MEASURES, 565.

SECOND HAND ARTICLES, sale of, 424.

SELECTMEN. See Elections, 165.

SEWERS. See Drains and Sewers.
See Engineer, City, 131.

SHADES AND AWNINGS REGULATED. See Streets, 485.

SHEEP. See Streets, 489.

SHERIFFS. See Jurors and Riots.

SHINGLES. See Lumber, 297.

SHIPS. See Health, 253, 254.
See Harbor of Portland, 238.
See Gunpowder, 226.

SHOW BILL. See Buildings, 78.

SHOWS. See Amusements, 53.

SICKNESS. See Health, Infectious Diseases and Nuisances.

SIDE TRACKS. See Streets, 491.

SIDEWALKS. See Streets, 494, 495, 496, 497.

SIGNS, not to project into streets, 486.

SINKING FUND. See Railroads, 360.
commissioners of, 381.
committee on reduction of city debt, 450.
appropriations for payment of city debt, 450.
duty of auditor, 451.
committee may loan to city treasurer, 451.

SLEDS. See Carriages, 87.

SLEIGHS. See Carriages, 87.

SMALL POX. See Health, 255, 256.

SNOW, to be removed from footway or sidewalk, 496.
this provision applies to snow falling from buildings, 497.
thrown into streets must be spread evenly, 497.

SNOW-BALLS, not to be thrown in streets, 484.

SOLDIERS AND SEAMEN. See Elections, 156, 159.
See Hawkers and Pedlers, 241.
See Liquor Agent, 49.

SOLE LEATHER. See Leather.

SOLICITOR, how chosen, qualifications, 452.
duties, 452.
to commence and prosecute suits, 452.

SOLICITOR, to appear before legislature and committee thereof, 453.
to furnish legal opinions, 453.
to make annual reports to city council of unfinished business, 453.

SQUARES, the word street to include, 497.

STABLES, livery, buildings not to be occupied for, without direction of municipal officers, 75.

STANDING WOOD AND TIMBER, lien thereon for payment of taxes, 513.

STATE COMMISSIONER, liquor agents to purchase of, 50.
school fund. See Schools, 430.

STATIONERY AND BLANK BOOKS. See City Clerk, 127.

SOLDIERS AND SEAMEN, liquor agent not to sell to, 49.

STAVES. See Lumber, 298.

STONES AND MONUMENTS. See Cemeteries, 101.

STEAMBOATS. See Ferries, 176.

STEAM ENGINES. See Nuisances, 321.

STEAM HEATING COMPANY, charter of 1880, 454.
capital stock, 454.
privileges, 455, 456.
not to obstruct public travel, 454.
management by board of directors, 456.
authority to city after ten years, 456.
franchises continued, 457.
penalty for obstructing streets, 457.
actions against for injuring private property, 458.
in control of city, 458.
act to take effect when, 458.

STEELYARDS may be used after being sealed. See Weights and Measures, 565.

STEPS not to project into streets, 487.

STOCKHOLDER, city of Portland not. See Railroads, 370,

STONES, not to be thrown in streets.

STOVEPIPES, when defective must be removed or repaired, 191.
if set on fire, penalty, 195.

STREETS, authority of city council, 463.
land damage, 464.
damages by laying out or widening streets, how apportioned, 465.
form of notice to owners of lots assessed, 466.
owner aggrieved by assessment, 467.
proceeding where no appeal and assessment not paid, 467.
recovery of assessment by action, 468.
original location of streets, how ascertained, 468.
persons may object to report, 468.
obstruction of, on public occasions, 468.
powers of county commissioners to include cities, 469.
excavations, how made 469.
damages by raising or lowering, 469.
sliding and coasting on, 470.
townways across or under railways, how built, 470.
when not at grade, 470.

STREETS, ways already laid out, 470.
costs may be taxed and allowed to either party at the discretion of the court, 471.
majority of voters of town may re-instate town way discontinued by county commissioners, 471.
public highway may be constructed in Portland into tide waters, 472.
ferry-way and landing, 472.
towns may raise and assess money for bridges and ways as other taxes, 472,
ways to be left open and in repair, 472.
ways on line between towns, 473.
how divided and repaired, 473.
municipal officers to assign limits to surveyors, 473.
towns raise money, 474.
persons injured by defect in highway may recover damages, act of 1877, 474.
amount of damages limited, act of 1879, 475.
slippery sidewalk no cause of action, 475.
notification of defect, 475.
buildings or fences existing twenty years on street or way deemed true bounds, 476.
towns must maintain guide posts at crossings of ways, penalty, 476.
municipal officers to erect guide posts, penalty, 476.
in relation to laying sidewalks, 476.
names of streets to be continued, 477.
committee to lay out new streets, 477.
to estimate damages, 477.
to report to city council, 477.
commissioner of streets elected, 478.
sworn, compensation, and how removed and successor appointed, 478.
duties, 478.
to keep all streets safe and convenient for travellers, 478.
to attend to widening, alteration, repairs, &c., of streets, 488.
to make contracts, 478.
to have charge of teams, 478.
street commissioner's powers pass to commissioner of streets, 478.
must pay damages from his own neglect, 478.
must make himself acquainted with lines of streets, 479.

STREETS, shall make arrangements with overseers of alms house for supply of labor, 479.
shall discharge all bills once a month, 479.
render account to board of aldermen, 479.
present annual account to committee of accounts, 479.
shall erect stone monuments and record them, 479.
removal of monument, penalty, 480.
land lots dangerous to travellers, to be fenced in, penalty, 480.
streets not to be dug up or gravel removed from without license, penalty, 480.
when broken up, to be repaired, penalty, 481.
no drain or aqueduct to be opened or repaired without license, penalty, 481.
when license granted, repairs must satisfy the commissioners, 481.
one half of street to be kept open, 481.
railing and light required, penalty, 481.
notice to be given of intention to erect or repair buildings on streets, 482.
portion of street to be alloted, 482.
rubbish, &c., to be carried away at such times as mayor directs, 482.
neglected, to be removed at expense of person building, 482.
portion of street so alloted must be lighted, penalty, 482.
lumber, stones and building materials not to be placed in streets to remain over six hours without permission of mayor and aldermen, penalty, 483.
such lumber, &c., may be removed at expense of owner, 483.
may be sold at auction if owner refuse to remove them, 483.
no person to blast rocks within fifty rods of street without license, penalty, 483.
no person to play bat and ball or throw snow balls in streets, penalties, 484.
no person to shoot with bow and arrow, or fly kites, penalties, 484.
no person shall coast upon a sled or skate on streets, penalty, 484.
gaming tables and devices not to be exposed on, 484.
nor play at unlawful games on, penalties, 484.
no person to swim or bathe in exposed situations, penalty, 484.
manure not to be taken from streets without permission of commissioner, penalty, 484.
streets shall not be obstructed by moving of buildings, 485.
building remaining in street beyond time of permit, 485.

STREETS, to be removed by city marshal, penalties, 485.
no goods or merchandise to project into streets, penalty, 485.
regulations as to awnings and shades, penalty, 485.
signs, &c., not to project into streets, penalties, 486.
making noises in streets, penalty, 486.
grinding cutlery in streets forbidden, penalty, 487.
porticoes, porches, &c., not to project into streets, penalty, 487.
cellar doors, &c., 487.
not to remain open unless licensed, 487.
lights to be kept at entrances, penalties, 487.
entrance and steps to be secured with railings or chains, 487.
lights to be placed, penalties, 488.
aperture or coal holes not to be made without license, penalty, 488.
if left open, penalty, 488.
gratings in sidewalks not to extend more than eighteen inches, penalties, 488.
mayor and aldermen may authorize the construction of coal holes and gratings, 489.
not to extend more than three feet, 489.
horses shall not be driven in street at faster rate than six miles an hour, penalty, 489.
horse, cattle and swine running at large, penalty, 489.
horse s or other animals not to be frightened by persons wantonly making noises, &c., penalty, 489.
speed of trains on Commercial St. regulated and bells of locomotives to be rung, 490.
brakemen to be at brakes, 491.
penalties, 491.
articles to be unloaded on south east side of railroad track, 491.
not to obstruct streets leading to, or passage ways, 491.
after four o'clock in the evening may be unloaded on the northwesterly side, 491.
engines, &c., not to obstruct streets or passage ways, 491.
side tracks or turnouts, not to be laid without permit of mayor, 491.
street commissioners to superintend the same, 492.
vessels or boats not be made fast to sea walls or coping stones, 492.
not to lay so as jib-boom, &c., may project, 492.
articles not to be shipped or landed over coping stones, 492.
penalties, 492.

STREETS, width of sidewalks regulated, 492.
sidewalks may be accepted after put in repair, 492.
sidewalks relinquished maintained at expense of city, proviso, 492.
bricks and sand to be furnished to lay sidewalks, 493.
to be laid under direction of street commissioners, 493.
specifications, 493.
when city council require sidewalks to be paved, 493.
city to assume one half the the expense, 494.
names of streets to be recorded 494.
alteration in sidewalks, 494.
posts and trees not to be set without consent, penalty, 494.
carriages, handcarts, &c., not to go on sidewalks, 494.
horses or other animals not to stand upon sidewalks, penalty, 494.
wood not to be sawed or split upon sidewalks, penalty, 495.
persons not to stand in a group upon sidewalk or cross-walks so as to obstruct, penalty, 495.
refusing to move on, penalty, 495.
goods not to be placed upon sidewalks to obstruct, penalty, 496.
penalty after notice, 496.
snow to be removed from footway or sidewalk, 496.
penalty, 496.
provision applies to snow falling from any building, 497.
ice to be removed or covered with sand, penalty, 497.
thrown into streets to be placed evenly and broken into small pieces, 497.
word streets to include alleys, lanes, &c., unless, 497.
provisions of preceding section not to limit rights and duties of street commissioners, 498.
Back Cove flats, 498.
lines and grades of streets, 498.
encroachments on, 499,
new and old grades, 499.
petitions for grades, committee to submit plans and estimates for paving, 499.
numbering buildings and lots, 499, 500.
monuments, 500.
streets kept clear, 501.
opening, where water or gas pipes are laid, 501.
excavations, 502.
further duties of commissioners, 502.

STUDENTS. See Elections, 156.

SUPERINTENDENT. See Cemeteries, 97.
See Health, 271, 272.

SUPREME JUDICIAL COURT. See Courts.

SURVEYORS OF LUMBER. See Lumber.

SWIMMING, so as to be exposed to view, 484.

SWINE, not to run at large. See Streets, 489.

TAXATION, exemption from. See Manufacturing Establishments, 305.

TAXES. See Assessors, in charter, 28, 29.
poll tax, on whom assessed, 510.
real and personal property taxable, 510.
real estate, what is included, 510.
real estate of railroad corporations regarded as non-resident land, 510.
track not regarded as real estate, 510.
personal estate, what it includes, 511.
property of religious societies exempted to a certain extent, 511.
certain other property exempt, 511.
polls and estate of Indians and polls of persons under guardianship exempted, 512.
manufacturing establishments with two thousand dollars invested exempt for ten years, 512.
mines exempt, 512.
aqueducts, pipes and conduits in certain cases exempt, 513.
poll tax where assessed, 513.
standing wood and timber to whom assessed, 513.
lien created thereon, 513.
landlord and tenant to pay equally, 513.
personal estate taxable where owner resides, 514.
exempted cases, 514.
goods, wares, merchandise and lumber, where taxed, 514.
machinery and real estate belonging to corporations, where taxed, 514.
mules, horses, neat cattle, sheep, sheep and swine taxed where kept, 514.
personal property of minors and wards assessed to guardians, 515.
personal property held in trust for a married woman by executor, administrator or trustee, 515.

TAXES, personal property placed in the hands of any corporation as funds in trust, 515.
personal property of deceased persons, 515.
property held by religious societies, 516.
toll bridges taxed as personal property, stock of gas or water supplying corporation, 516.
duties of assessors, 516.
clerks of corporations failing to make returns, 517.
franchise may be sold in certain cases, 517.
blood animals, 517.
personal property of non-residents, 517.
lien in favor of person paying tax, 517.
remedy for paying more than proportion of tax, 517.
stock of companies invested, how taxed, 518.
mortgaged personal property, how taxed, 518.
real estate of deceased persons, how taxed, 518.
partners, personal property, 519.
lands may be assessed to owners or tenants, 519.
part owner may be taxed and pay separately, 519.
assessments may continue to be made on same person till notice given, 520.
property of certain corporation, for manufacturing, &c., where taxed, 520.
stock of banks where taxed, 520.
bank stock out of State, 520.
cashiers required to exhibit books, 521.
deliver certified copy of dividend, 521.
shares to be taxed in the town where bank is located, when residence of holder is unknown, or out of the State, 521.
collector to give notice to cashier or president of bank, 522.
powers of collectors, 522.
actions maintained by treasurers of towns and cities, 522.
supplementary assessments may be made to correct mistakes, 522.
treasurer of State to issue warrant for State tax, 523.
what warrant requires, 523.
assessors to be governed by the rules established, 524.
assessors responsible for personal faithfulness only, 524.
collectors how chosen, 524.
fees and travel of collectors, 524.
collector to receive a warrant, 525.

TAXES, to give approved bond, 525.
constable or collectors to give receipt on demand, 525.
collector may sue in his own name, 525.
distrain if tax not paid, 525.
may imprison after twelve days' notice, 525.
without such notice in certain cases, 526.
when payable by installments and person about to remove, 526.
former collector to complete collection, 526.
shares in corporation may be distrained, 526.
officers of corporation to give certificate of shares, 526.
collector may collect in any part of State, 526.
may bring action of debt in certain cases, 527.
assessment not void if including sums for an illegal object, 527.
collections how made if non-residents of improved land, 527.
chattels of non-residents, 527.
collector impeded may demand aid, and person refusing is subject to penalty, 528.
account of collections, 528.
collectors removing required to give up tax bills, 528.
penalty for refusing to deliver tax bills, 528.
when collector dies, 528.
sums over paid to be restored, 529.
State Treasurer may issue warrant against delinquent treasurer, 529.
towns to pay when collector fails to, 529.
assessors in such case to make new assessment, 530.
when action of debt may be maintained, and costs thereof, 530.
additional remedy against corporations, 530.
time fixed for paying tax, interest, 530.
election of assessors, their duties, 531.
treasurer of city of Portland shall be collector of taxes, 531.
advertisement of sale of real estate, 531.
publication of list, 531.
duty of assessors, 532.
treasurer and collector, 532.
See Assessors, 28, 29.
Railroads, 412.
Schools, 429.

TEACHERS. See Schools.

THROWING, stones or snow-balls in streets, 484.

THEATRICAL EXHIBITIONS. See Amusements.

TIMBER. See Lumber.

TOWNS, may provide for support of poor children, 112.

TOWN-WAYS. See Streets, 470.

TRAINS. See Streets, 491, 492.

TRAMPS, begging prohibited, 534.
definition of tramp, 534.
penalty, 534.
fees of officers, 534.
punishment of tramp, 535.
entering a building, 535.
injuring a person, 535.
evidence, 535.
apprehension of, 535.
special constables, 535.
females, minors and blind persons not affected by act, 535.
advertisement of act, 535.
penalties, 536.

TREASURER, to keep record of lots in Evergreen and Forest City cemeteries, 99, 108.
to report to city council lots sold, 99, 108.
to execute certificates of lots, 97, 107.
to collect and receive rents, 182.
to receive fines and penalties, 182.
to proceed to collect accounts without delay, 182.
to report unsettled accounts to mayor and aldermen, 183.
to make up annual account to first day of April, 183.
to be a member of licensing board, 281.
bond of licensed person to be given to, 282.
fee for license to be paid to, 282.
to keep set of standard weights, &c., 564.
to keep seal, 448. See City Auditor, Finance, Sinking Fund, Taxes.
to receipt to liquor agent, 51. See Agent.
See City Clerk, 126.
Finance, 183, 185.
Railroads, 382.
Drains and Sewers, 148.
Weights and Measures, 564.

TREASURER AND COLLECTOR. See Finance, 182, 183.

TREES, towns, cities and villages may make by-laws relating to, 537.
not a defect in the street, 537.
injury to, 537.
ornamental trees on streets not to be removed, &c., without consent of mayor and aldermen, 538.
penalty if horses, &c., mutilate or destroy, 538.
shall not be injured without consent of mayor and aldermen, 538.
horses and animals shall not be fastened to, 538.
penalties, 538.
duty of city marshal to prosecute, 538.
fines and forfeitures thus collected to constitute a fund for replanting trees, 538.
taken to be legally established, 538.
record, 539.

TRUANTS. See Schools, 432, 433, 444, 445.

TRUCKS. See Carriages, 87.

TRUSTEE. See Railroads, 380.

UNDERTAKERS. See Cemeteries, 104, 105.
Health, 272, 273.

UNLAWFUL ASSEMBLIES. See Riots, 420.

VACCINATIONS, 443, 256.

VACANCIES. See Elections, 163, 165.

VAULTS. See Health, 265.

VENIRE. See Jurors, 288.

VESSELS, on stocks, attachment of, 123.
anchored contrary to rules. See Harbor of Portland, 239.

VICTUALERS. See Innholders, 281.

VINEGAR, adulteration of, 540.
use of bad ingredients, 540.
inspectors of, 540.

VOTERS, persons not, cannot act as auctioneers, 59.
penalty for not summoning. See Constable, 166.
who are legal. See Elections, 157.

VOTES, returns of. See Elections, 161, 162, 163.
how to determine highest number of, 170.

WAGONS. See Carriages, 87.

WARD CLERK. See Charter.

WARDEN, *pro tem.* may be chosen, 164.
for islands. See Elections, 169.
See Charter, 34.
See Wards, 541.

WARD MEETINGS, notice of, by city clerk, 36.
See Elections.
See Railroads, 384.

WARD ROOMS. See Constable and Messenger, 109.

WARDS, division of city into, 541.
wardens and clerks, 541.
ward meetings how called, 542.
ISLAND, 170, 542, 543.
city wards may have their limits changed, how, 543.

WARRANTS. See Municipal Court, 315.
See Elections, 158, 172.

WATCH AND WARD, 546.

WATER, from roofs. See Ordinances, 153.
incorporation of Portland Water Co. 547.
its purpose and powers, 547.
liability to damages, 547, 548.
capital stock, 548.
rights of city of Portland, 548.
authority to lay pipes, 548.
powers of city in the company, 550.
penalty to the company for obstructing streets, injuring property and corrupting waters, 551.
erection of dams, 551.
power of mayor and aldermen, 552.
first meeting, 552.
corporation may issue bonds, 552.
city may exempt from taxation for six years, 552.
an act additional to charter of company, 552.
contracts made binding, 552.
court of equity to compel performance, 553.
board of commissioners, 553.
time for completion of work, 553.
ordinances, 554.

WATER, regulations of company, 557.
permits, 557.
when streets shall be broken into, 558.
damages, 558.
control of street commissioner, 559.
when work to be done, 559.
obstructions deemed nuisances, 559.
pipes of, water and of gas company. See Streets, 501.
laid at expense of company, 559.
penalty for injuring property of company, 560.

WATERING TROUGHS, abatement for, 561.

WAYS. See Streets.

WATCHMAN. See Policemen, 349.

WEIGHERS AND GAUGERS, appointed and sworn, 562.
duties and fees, 562.
shall pay for use of scales, 563.
persons not authorized so acting, penalty, 563.

WEIGHERS OF HAY. See Hay.

WEIGHER OF HARD COAL, how chosen, 567.
appointed and sworn, 567.
duties, 568.
penalties, 569.
compensation, 569.
coal must be sold by weight, 569.

WEIGHER OF PLASTER, election and compensation of, 570.
scales provided by city and bonds given by measurer, 570.

WEIGHTS AND MEASURES, town seal and standard beams, weights and measures kept by town treasurer, 564.
appointment of sealers and penalty for refusing to act as, 565.
sealer's duties and penalty for neglect to perform, 565.
what scales may be used, 565.
measures for articles sold by heaped measure, 566.
fee of sealers, 566.
by whom paid, 566.

WELLS, offensive substances must not be thrown into. See Health, 266.

WELLS AND PUMPS, penalty for injury to, 571.
wasting water from, 571.

WHARVES, restrictions on extent of, 572.
notice for construction of, 572.
Atlantic and St. Lawrence, 572.
wharf line established, 572.

WINDOWS, must not project into streets, 487.

WITNESSES, mayor and aldermen may compel attendance of, in some cases, 42, 43.

WOOD, not to be sawed or split on sidewalks. See Streets, 495.

WOOD, BARK AND CHARCOAL, towns may regulate the measure and sale of, 574.
dimensions, 574.
penalty of selling, before survey, 575.
brought by water, how measured, 575.
ticket stating quantity and name of driver, 575.
fraudulent stowage of, penalty, 575.
how charcoal may be measured and sold, 576.
coal baskets to be sealed, dimensions, 576.
penalty, 576.
seizure of unlawful baskets, 576.
measurer, refusing to give certificate, penalty, 576.
measurers of firewood and bark, how chosen, 576.
measurement divided into two branches, 577.
wood and bark brought into city by cart, 577.
city divided into two districts, 577.
measurer must give tickets and keep record thereof, 578.
teams with wood or bark not to stand in street longer than ten minutes, 578.
cattle not to be fastened to post, 578.
wood not to be unloaded or piled in market, 578.
seizors of baskets how appointed, 578.

WOODEN BUILDINGS, restrictions on constructing, 77.

WORK HOUSES. See Paupers, 327 and page 579.

WRITS. See Municipal Court, 314.

LAW LIBRARY OF THE UNIVERSITY OF CALIFORNIA

THIS BOOK IS DUE ON THE LAST DATE STAMPED BELOW

AN INITIAL FINE OF 25 CENTS

WILL BE ASSESSED FOR FAILURE TO RETURN THIS BOOK ON THE DATE DUE. THE PENALTY WILL INCREASE TO 50 CENTS ON THE FOURTH DAY AND TO $1.00 ON THE SEVENTH DAY OVERDUE.

JUL 23 1938

LD 21-95m-7,'37

YC 09678

LS1315
.A15
116880